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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 31st March, 1959 :—

Issue No.	No. and date	Issued by	Subject
44	S. O. 692, dated 27th March, 1959.	Ministry of Labour and Employment.	Appointment of date on which certain chapters of Employees State Insurance Act, 1948 shall come into force in certain areas of the State of Rajasthan.
45	S. O. 693, dated 28th March, 1959.	Election Commission, India.	Calling upon the Mahasu Constituency, Himachal Pradesh to elect a person to fill a vacancy.
	S. O. 694, dated 28th March, 1959.	Do.	Appointment of dates for making nominations, scrutiny of nominations, withdrawal of candidatures, etc., with respect to the by-election to be held in the Mahasu Parliamentary Constituency, Himachal Pradesh in pursuance to Notification No. S. O. 693, dated 28th March, 1959.
46	S.O. 695, dated 30th March, 1959.	Do.	Direction that the method of voting by marking the ballot paper shall be followed at all polling stations in the by-election to the House of the People from the Mahasu Constituency in pursuance to Notification No. S. O. 693, dated 28th March, 1959.
47	S. Os. 696 and 697, dated 30th March, 1959.	Ministry of Information and Broadcasting.	Approval of films specified therein.

Issue No.	No. and date	Issued by	Subject
48	S. O. 698, dated 31st March, 1959.	Ministry of Labour and Employment.	Refers the dispute between the employers in relation to Bhagaband Colliery and their workmen for adjudication to the Industrial Tribunal, Dhanbad.
	S. O. 699, dated 31st March, 1959.	Do.	Prohibits the continuance of strike and/or lock out in existence in the Bhagaband Colliery.
49	S. O. 700, dated 31st March, 1959.	Ministry of Commerce and Industry.	Further amendment in Notification No. 3143, dated 5th October, 1957.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 1st April 1959

S.O. 740.—In pursuance of the provisions of clause (b) of sub-section (6) of section 116A of the Representation of the People Act, 1951, and in continuation of its notification No. 82/149/57/23, dated the 3rd November, 1958, published in the Gazette of India, Part II, Section 3(ii), dated the 22nd November, 1958, the Election Commission hereby publishes the Order of the High Court of Judicature at Madras, passed on the 19th February, 1959, on the appeal against Order No. 255 of 1958, filed by Shri C. R. Narasimhan, against the Order, dated the 30th September, 1958, of the Election Tribunal, Madurai, in the Election Petition No. 149 of 1957.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday, the nineteenth day of February One thousand nine hundred and fifty-nine (30th Magha, 1880—Saka)

PRESENT:

The Honourable Mr. P. V. Rajamannar, Chief Justice,

and

The Honourable Mr. Justice Ganapatia Pillai.

APPEAL AGAINST ORDER NO. 255 OF 1958

C. R. Narasimhan—Appellant (1st Respondent).

Versus

M. G. Natesa Chettiar—Respondent (Petitioner).

Appeal against the order of the Election Tribunal, Madurai II, dated the 30th September 1958 and made in Election Petition No. 149 of 1957.

This appeal coming on for hearing on Monday, 19th January 1959, and having stood over for consideration till this day, the Court delivered the following:—

JUDGMENT

The Honourable the Chief Justice:—

This is an appeal against the order of the Election Tribunal Madurai II setting aside the election of the appellant to the seat for the single member Parliamentary constituency of Krishnagiri on an election petition filed by the Respondent (E.P. 149 of 1957). For the said seat there were five candidates out of whom one withdrew. The appellant secured the largest number of votes and on 8th March 1957 he was declared as the returned candidate. The respondent, M. G. Natesan Chettiar an elector for the Krishnagiri Assembly constituency which is one of the constituencies comprised in the Krishnagiri Parliamentary constituency filed an election petition out of which this appeal arises praying that the election of the appellant be declared void and one G. D. Naidu who had secured the largest number of votes after the appellant be declared duly elected. The election of the appellant was sought to be set aside on several grounds which included charges of corrupt practices committed by the appellant. For the disposal of this appeal it is not necessary to mention all of them because the Election Tribunal found that excepting the corrupt practice to which we shall refer presently the election petitioner had not proved the commission of any other corrupt practice set out in the election petition. The material allegations in the election petition relating to the corrupt practice of which the Election Tribunal found the appellant guilty are as follows:—

"The petitioner states that the first respondent has incurred and authorised the expenditure in contravention of section 77 of the Act and committed a corrupt practice under section 123(6) of the Act. He has incurred an expenditure of over Rs. 25,000. In his return of election expenses he has not taken into consideration the heavy expenditure incurred by the Congress Party in furtherance of his candidature. The Congress Party has incurred heavy expenditure of many thousands of rupees in furtherance of the prospects of the election of the first respondent and other Congress candidates who stood for election to the Assembly in the Krishnagiri Parliamentary constituency. The expenditure has been incurred in various ways by the Congress Party by doing propaganda in support of the Congress Party candidates including meeting, processions, dances, dramas, feeding and many other diverse ways. I state that Section 77 referred to in section 123(6) of the Act provides that every candidate at an election shall either by himself or by his election agent keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive, that the account shall contain such particulars as may be prescribed and that the total of the said expenditure shall not exceed such amount as may be prescribed. The particulars which the accounts shall contain is provided for in Rule 131. The Maximum amount of expenditure is provided for in Schedule III. Section 78 of the Act provides that the Return of Election expenses shall be a true copy of the accounts kept by the candidate or by his election agent under Section 77. The petitioner states that on an examination of the return of election expenses made by the first respondent it will be found that he has contravened the provisions of section 77 of the Act and therefore committed a corrupt practice under section 123(7) of the Act. The first respondent has failed to conform to the provisions of section 77 and he has exceeded the maximum amount prescribed for expenditure for the election."

The appellant traversed these allegations in paragraph 23 of his counter statement which runs thus:—

"The statements in paragraph 31 that this respondent incurred of authorised expenditure in excess of the prescribed maximum are false and are denied. This respondent kept separate accounts of all expenditure in connection with the election as required by the rules. This respondent states that he is not concerned with any expenditure incurred by the Congress Party in furtherance of its election campaign all over the State and country. This respondent is advised and states that he is not obliged to include in his account items of expenditure

neither incurred nor authorised by him. The petitioner has failed to state what exactly are the items of expenditure which he incurred or authorised and which ought to have formed part of his return and the allegation therefore lacks particulars. This respondent has submitted a correct statements of accounts, without violating any rules."

The appellant asked for particulars of the corrupt practice above mentioned, that is to say, the precise items of expenditure incurred or authorised by the appellant which according to the respondent (election petitioner) ought to have been included in the return of election expenses. The respondent furnished a list of such expenses. This list included seven items out of which it is sufficient to mention one because the Election Tribunal found that the Respondent had failed to prove the other items. That one item is item No. 7.

"Expenses incurred for advertisement for canvassing votes by paintings on walls in Dharmapuri, Pennagaram, Papparappatti, Pallakode, Krishnagiri, Kaveripatnam and other places of major panchayat areas are not shown in the accounts."

Regarding this item the appellant in his counter affidavit stated as follows:—

"Such expenses as I incurred for the advertisement by painting on walls in the constituency have been disclosed in the return. I submit that in any event no corrupt practice under section 123(6) has been committed by me and I have not incurred expenditure in excess of the prescribed maximum."

Issue 8 which was raised on these pleadings runs as follows:—

"Whether the first respondent spent in connection with his election, any amount in excess of Rs. 25,000, whether the first respondent omitted to include in his account any item of expenditure actually incurred by him in connection with his election; and whether he is guilty of a corrupt practice under section 123(6) of the Act?"

The corrupt practice set out in section 123(6) of the Representation of the People Act, 1951 is "The incurring or authorising of expenditure in contravention of Section 77." Section 77 is in the following terms:—

Account of election expenses and maximum thereof.—(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof both dates inclusive;

- (2) The accounts shall contain such particulars, as may be prescribed;
- (3) The total of the said expenditure shall not exceed such amount as may be prescribed.

Evidence was adduced on the item of expenditure above mentioned. In the course of the evidence, however, there was another item which was revealed and it was admittedly not included as such in the account of the appellant's election expenses, namely the charge for a telegram despatched by the appellant to Madras on or about 28th February or first of March. The Election Tribunal found the appellant guilty of corrupt practice under section 123(6) of the Act in that he admitted (1) to include in the account of his election expenses two items of expenditure incurred by him and (2) to mention particulars thereof and obtain vouchers therefor, and contravened the provisions of section 77(1) and (2) of the Act. He also found that no attempt was made to prove the charge that the appellant had incurred an expenditure in excess of the maximum allowed by the rules. In the result though the election of the appellant was found to be free from many corrupt practices attributed to him the Election Tribunal found that he was bound to perform his statutory duty and declared the election void on the ground that the appellant had committed an offence which fell under section 123(6) of the Act. The Tribunal, however, refused to grant the second prayer of the respondent, namely, that G. D. Naidu should be declared duly elected.

The learned Advocate General who appeared for the appellant challenged the correctness of the findings of the Election Tribunal both on facts and on law. We shall first take up the question of fact and then deal with the question of law.

Item 7 of the list of items furnished by the respondent of the expenses alleged

to have been incurred by the appellant and not included in the election expenses account relates to advertisement for canvassing votes by painting on walls in Dharmapuri, Pennagaram, Papparapatti, Pallakode, Krishnagiri and other places. The evidence regarding this item adduced by the respondent-election petitioner is as follows: The expenses incurred for wall painting in about 200 places throughout the constituency, each of which would have cost about Rs. 5. The painting was "Vote for C. R. Narasimhan, Congress Candidate". P.W. 5 Mohanram spoke to his having seen in the wall paintings with the Congress symbol asking to vote for the appellant and that he had seen one Chandrasekhara Asari making such paintings. This Asari was not examined. P.Ws. 6, 8, 9 and 10 also speak to their having seen the wall paintings as an item of election propaganda of the appellant. The last witness gave the size of the painting as two feet by one foot. The appellant himself was examined as R.W. 3 The material portion of his deposition is as follows:—

"I have included in my account of election expenses the amount spent by me for making wall painting of symbol, viz., "Oxen". On 18th February, 1957 the amount incurred is debited. The amount is Rs. fifty and it was paid to Appadurai. Voucher No. 16 is the voucher taken from him. The painting is a simple affair and is what is called a tin stencil. The painting is made by two tin stencils one for the symbol of oxen of the file size namely 12 inches by 9 inches and the other a rectangular piece about 24 inches by four inches. The second rectangular piece contains my name. Rs. fifty is all the expenditure incurred by me in this matter and I have entered it in my account. No other expenditure was either incurred or authorised by me in this regard. I paid Rs. fifty in all to Appadurai for making tin stencil paintings. The amount includes both advance and final payment. I paid an advance and when the stencil was shown to me I paid the balance. It was a bargain for a lump sum and not so much a piece. Rs. fifty includes everything including preparation of the stencil. I did not ascertain in which of the towns and villages the prints were made. I saw the impression only in Krishnagiri. My request was to put such impression in all important towns in my constituency. He might have or might not have carried out my directions. I do not remember whether my second payment was after the work was finished or not. Voucher No. 16 and No. 16 shown.

Q. I put it to you that these vouchers are for preparation of the tin stencil alone and do not include the paintings on the walls?

A. It is not so. The contract was for the execution of the entire work.

Q. I put it to you that paintings were made on walls on your behalf in all important towns apart from the stencil impressions and that you have omitted from your account of election expenses the expenditure incurred in that behalf?

A. I have included in my accounts all the expenditure incurred by me and I have not incurred or authorised any other expenditure. No paintings on walls apart from stencil impressions were made by me or at my instance or on my behalf."

Obviously if the sum of Rs. 50 admittedly entered in the account represents the total expenditure for the wall paintings then there is no omission to enter this item of expenditure in the account. The voucher which was produced relating to payment of Rs. 50 contains the following recital:—

"Tin stencils with pattern of symbol of oxen in connection with the general elections, inclusive of the charges for cutting 105 letters Bill Rs. 50".

The Election Tribunal refused to accept the contention of the appellant that the voucher and the account included the cost of painting of the walls. He considered that a sum of Rs. 50 was too small to cover the cost of tin boards, wages for cutting symbols and 105 letters expenses for travelling to and in important towns in the whole constituency, price of paint and charges for painting. The inference was that the expenditure incurred by the appellant for painting on the walls had been omitted to be included in the account kept by him and that, therefore, the appellant had contravened the provisions of sub-section 1 and 2 of section 77 of the Act. Having perused the entire evidence bearing on the points we are unable to agree with the Election Tribunal. Though the title has been given an expenditure for the wall paintings it transpires that they were mere stencil

impressions, which would not involve much time or labour or skill. We see no reason to disbelieve the appellant when he says that a sum of Rs. 50 was all that he expended in connection with the paintings on the walls. There is no proof that more was incurred by the appellant for this purpose. The stencils themselves were only tin plates. We accept the appellant's statement and hold that the respondent has failed to prove the omission to include any expenditure incurred on the wall painting other than what was included in the expenses account.

The next item of expenditure which the Election Tribunal held had been omitted to be included in the expenses account relates to a telegram sent by the appellant to a friend of his at Madras to bring a car for the purpose of the election. This item is not to be found in the list furnished to the Tribunal by the respondent. The basis for this charge is an alleged admission by the appellant himself in the course of his deposition. It is true that the appellant admitted having sent a telegram and that he might have omitted to mention the telegram by oversight. The matter was further elucidated in his re-examination of the following way:—

"Q. Apart from inadvertence is there any other reason why the expenses for the telegram that you sent to your friend at Madras is not shown in the account of your election expenses?

A. There could be one or two possibilities. I might have used whatever stamps I had already in my possession or any reply telegraph from which I may have had or some one may have paid for it and may not have brought the bill to me and asked for the money. It might be that cash might not have at the moment passed from my pocket. At that moment I was working at a great strain."

A preliminary objection had been taken before the Tribunal that this item should not be considered at all as it was not averred in the petition or in the particulars but the objection was overruled as it was permissible to consider another instance or corrupt practice though it will not be permissible to consider a new head of corrupt practice. The Tribunal, further, was of the view that when the fresh instance was based on the admission of the party himself there could be no objection on the ground of the want of pleading in that regard. Accepting the validity of this legal position, if a finding has to be arrived at on the admission of a party it is well established that the admission has to be taken as a whole. The Election Tribunal though aware of this rule nevertheless held that the whole of the appellant's admission is contained in the answers given by him in cross-examination and that what was said the next day in re-examination cannot be tacked on to the previous day's admission and even if it be tacked on it does not detract from the guilt of the first respondent (appellant). In the first place we are unable to find any warrant for making an artificial division of a party's deposition according to the days on which the deposition was recorded. It is, of course, open to a court or a tribunal to refuse to accept any statement made by a witness in his chief examination, or cross-examination or re-examination. The Election Tribunal was wrong in saying that what was said the next day in re-examination could not be tacked on to the previous day's admission. In the second place we are unable to agree with the Tribunal that even if it be tacked on it would not detract from the guilt of the appellant. If stamps which were used for the telegram were stamps which he had already purchased and the costs of those stamps had been included under the general heading of "postage" there would in effect be no further expenditure to be included in the account of expenses. On the meager evidence on the point we hold that it has not been established beyond all doubt that the expense incurred for sending the telegram in question was not included in the account.

In this view it is not necessary to deal with the question of law, namely, whether a mere omission to enter an item of expenditure in the expenses account would amount to a corrupt practice mentioned in Section 123(6) of the Act but as the matter was argued before us by the learned Advocate-General and there is a possibility of an appeal to the highest court we shall deal with it. The corrupt practice in question is the incurring or authorising of expenditure in contravention of Section 77. The gravamen of the offence is therefore, the expenditure, that is the act of spending in contravention of Section 77. Section 77 which we have extracted above consists of three sub-sections. Sub-sections 1 and 2 relate to the keeping of an account of all expenditure in connection with the election. Sub-section 1 enjoins on the candidate the duty of keeping a separate and correct account and sub-section 2 lays down that such account shall contain such particulars as may be prescribed. Neither of these sub-sections relates to "expenditure", that is, spending money as such. An account obviously relates to a period after the incurring of the expenditure and it contains entries of expenditure

already incurred or authorised to be incurred by the candidate. On the plain language of these two sub sections we find it impossible to hold that any failure on the part of a candidate to keep a correct account or to enter the necessary particulars in the account would amount to incurring or authorising an expenditure. Sub section 3, however, clearly relates to expenditure as such because it says that the total of the expenditure shall not exceed the prescribed amount. If more than the prescribed amount is expended then such expenditure would be in contravention of that provision and therefore in contravention of section 77. But any contravention of the provisions of sub-section 1 and sub section 2 of section 77 would not be a corrupt practice which would fall within section 123(6) of the Representation of the People Act because such contravention would not involve any incurring or authorising of expenditure.

We find that this view of ours has been taken by four other High Courts.

In *Shcopatsingh v. Narishchandia* (A.I.R. 1958, Rajasthan 324) a Division Bench (K. N. Wanchoo, C. J. and Jagat Narayan, J.) of the Rajasthan High Court held that the mere non maintenance of true accounts would not amount to a corrupt practice under section 123(6) of the Act. The Tribunal had found in that case that the candidate had contravened sub section (1) of section 77 in as much as he did not maintain a separate and correct account of the expenditure incurred or authorised by him in connection with the election between the date of publication of the notification calling the election and the date of declaration of the result thereof, and that such contravention would be a corrupt practice. The learned Judges refused to accept this construction of section 123(6) and observed:—

“Under section 123(6) it is only the incurring or authorising of expenditure in contravention of section 77 of the Act which amounts to a corrupt practice. The non-maintenance of true accounts has not been laid down as a corrupt practice. An entry is made in the account book only after an expenditure is incurred or authorised. The corrupt practice consists of incurring or authorising of expenditure in contravention of section 77.”

Only sub section (3) of section 77 deals with the incurring or authorising of expenditure, for it lays down that the total amount of the said expenditure shall not exceed such amount as may be prescribed. It is only when the total expenditure exceeds this amount that it can be said that it has been incurred or authorised in contravention of section 77.

Section 124(4) of the Act prior to its amendment by Act No. 27 of 1956 provided that the making of any return which was false in any material particular would be a minor corrupt practice. That provision has since been deleted.

We are accordingly of the opinion that a contravention of sub sections (1) and (2) of section 77 of the Act is no longer a corrupt practice. Nor is the submission of a false return of expenses a corrupt practice any longer.”

The Madhya Pradesh High Court in *K. C. Sharma v. Election Tribunal* (A.I.R. 1958 M.P. 236) explained the scope of section 123(6) of the Act thus:—

“Where instances are cited to show that the prescribed maximum has been exceeded there may be a case under sub-section (3) of Section 77 of the Act but the words: “the incurring or authorising of expenditure” do not lead to the application of sub section (2) or sub section (1) of section 77 in the context of an election petition.”

In *Ram Abhilakh Tewari v. Election Tribunal* (A.I.R. 1958 All 663) the charge made against the successful candidate was that the return of the election expenses which he had filed did not show the correct account of the expenditure incurred and authorised by him as it contained fictitious and concocted entries. Dealing with the allegation of the learned Judges of the Allahabad High Court said:—

“Such an allegation cannot be held to amount to a corrupt practice under section 123(6) of the Representation of the People Act. Under that provision of law the corrupt practice consists in incurring or authorising expenditure in contravention of section 77 which can only happen if a candidate incurs or authorises expenditure in excess of the maximum amount allowable under the rules framed under section 77(3) of the Representation of the People Act.”

In appeal No. 199 of 1958 (published in the Bombay Gazette dated 18th September, 1958) Desai and Miabhoj, J. J. repelled an argument that failure on the part of a candidate to maintain a separate account with all the particulars required by rule 131 of itself amounts to a corrupt practice within the ambit of section 123(6) thus:—

"In our judgment the contention is untenable. The language of clause (vi) of section 123 is express and explicit and that apart from the consideration that any clause which lays down any corrupt practice must be strictly construed. The clause does not say that any thing which is in contravention of section 77 is a corrupt practice. But what it says is that the incurring or authorising of expenditure in contravention of that section is a corrupt practice. Incidentally we may observe that there is a provision in the Representation of People Act, 1951 which deals with "disqualifications for Membership of Parliament or of a State Legislature" and clause (c) of that section relates to failure on the part of a person who has failed to lodge an account of his election expenses within the time and in the manner required under the Act. The carrying out of that requirements or failure to do so is a matter not for the Election Tribunal but for the Election Commission. It is that body which is concerned with this aspect of the matter. We do not deem it necessary in view of the plain and unambiguous language of clause (vi) of section 123 to discuss the matter in any detail. The present contention of the appellant must be negatived."

Two decisions of the Orissa High Court may now be briefly noticed though neither of them can be said to be a direct decision on the point.

In *Pyari Mohan v. Durga Sankar* (A.I.R. 1958 Orissa 125) it was inter alia alleged by the election petitioner that the election expenses account filed by the returned candidate did not show the expenditure incurred day by day by some of his workers. Narasimham, C. J. dealing with this charge said:—

"Even if this argument is taken as correct I do not think a slight irregularity in the maintenance of accounts as required by Rule 131 would be a corrupt practice for the purpose of sub-section (6) of Section 123 of the Act. Doubtless, if any amount actually expended is not brought into the accounts it would clearly constitute corrupt practice in as much as the total amount of expenditure prescribed may be exceeded and thereby sub-section (3) of section 77 contravened. But every petty irregularity in the manner of maintenance of accounts so long as the correctness of the entries is not in doubt, will not suffice to bring sub section (6) of section 123 of the Act into operation."

The above observations were clearly *obiter dicta*. There was no allegation in the case before the learned Chief Justice that any item of expenditure incurred by the candidate had not been incorporated into the account. Further it is not clear whether the omission to bring into the account a sum actually expended which even if added to the total expenditure would not result in the prescribed limit of expenditure being exceeded would in the opinion of the learned Chief Justice, constitute a corrupt practice. We are rather inclined to think that what the learned Chief Justice meant was that any omission or failure to include in the account a particular sum actually expended would amount to a corrupt practice only if the total amount of expenditure would be exceeded by the inclusion of that amount. Then the contravention would really be of sub section (3) of section 77 of the Act.

In *Akshya Narayan v. Maheswar Bag* (A.I.R. 1958 Orissa 207) there was no evidence to show that any item of expenditure incurred by the candidate's workers was not eventually brought into the account but it was found that such expenditure was not noted from day to day. On these facts, Narasimham C. J., held that no corrupt practice had been committed, as a fact. Incidentally however, he stated:—

"Doubtless if any item of expenditure was omitted altogether in the accounts that would be serious matter and may amount to a corrupt practice in as much as there is a likelihood of the total expenditure for the election exceeding the amount prescribed. But so long as every item of expenditure is accounted for I do not think that the mere omission to mention the dates on which each item of expenditure was actually incurred on behalf of the candidate by his workers is such a serious irregularity as to amount to a corrupt practice."

Here again it is not clear that the learned Chief Justice meant to lay down that if any item of expenditure is omitted such omission would itself amount to a corrupt practice. To give a concrete instance suppose the maximum amount prescribed is Rs. 5,000 and the account submitted by the candidate shows an expenditure of Rs. 4,000 odd and it is discovered during the hearing of the election petition that a sum of Rs. 20 which had been expended by the candidate had not been included. Obviously the inclusion of this amount of Rs. 20 would not result in the exceeding of the prescribed limit. In such a case we are not certain that in the view of the learned Chief Justice even such an omission would amount to a corrupt practice even though there is no likelihood of the total expenditure exceeding the prescribed amount. In our opinion there is nothing in either of the judgments of the Orissa High Court which militates against the view we have taken and which has also been taken by the High Courts whose decisions we have referred to above.

On this construction of section 123(6) and Section 77 of the Act we hold that even assuming that the appellant had omitted to include the expenditure incurred by him for the wall paintings and for the telegram he would not be guilty of any corrupt practice under section 123(6). There can be no doubt whatever that the addition of the said items of expenditure would not result in the maximum limit of expenditure being exceeded. As the election of the appellant has been set aside solely on the ground that he was guilty of a corrupt practice under section 123(6) of the Act and as we have held that he was not so guilty this appeal is allowed and the order of the Election Tribunal setting aside the appellant's election is hereby set aside and the election petition filed by the respondent is dismissed with costs before the Election Tribunal. No order as to costs here.

(Sd.) R. RAGHAVENDRA RAO,

Assistant Registrar, A. S.

[No. 82/149/57/5671.]

New Delhi, the 3rd April 1959

S.O. 741.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 5 of 1959, presented to the Commission on the 19th March, 1959, under section 81 of the said Act, by Shri Baburao Tatyaji Bhonsle, Journalist, resident of Badkas Chowk, Nagpur-2, calling in question the election to the House of the People from the Nagpur Constituency of that House, of Shri Madhav Shrihari Aney, Civil Lines, Nagpur.

Presented to me by Shri V. K. Pai who has been duly authorised by the petitioner to present this petition and whose signature has been obtained in the margin and attested as having been signed before me this the nineteenth of March one thousand nine hundred and fifty-nine.

(Sd.) V. K. PAI.

(Sd.) DIN DAYAL,

19-3-59,

Attested.

Under Secretary,

(Sd.) DIN DAYAL.

Under Secretary,

Election Commission, India.

Election Commission, India.

BEFORE THE ELECTION COMMISSION INDIA, NEW DELHI

ELECTION PETITION NO. 5 OF 1959

Baburao, son of Tatvaji Bhonsle, aged 55 years, Journalist, resident of Badkas Chowk, Nagpur-2—Petitioner.

versus

Madhav, son of Shrihari Aney, aged about 78 years, occupation nil, resident of Civil Lines, Nagpur—Respondent.

Election Petition under section 81 of the Representation of People Act, 1951

The petitioner above named begs to state as follows:—

1. The petitioner is a voter enrolled on the electoral Roll for the Nagpur Parliamentary constituency. His name appears at Serial No. 3287 in the list for ward No. 18, Nagpur City.

2. The bye-election for the House of People (Lok Sabha) was held at Nagpur on 31st January and 1st February 1959 for electing a candidate for the Lok Sabha from the Nagpur Constituency No. 138. The constituency was called upon to elect a candidate by a notification published on or about the 10th December 1958. The last date for submission of Nomination Papers was 20th December 1958. The scrutiny was held on 23rd December 1958 and 26th December 1958 was the last date for withdrawal of nominations.

3. In this election the respondent stood as a candidate and contested the election. Shri Bhaurao Dewaji Khobaragade alias Rajabhau Khobaragade and Shri Haridas Damaji Awade were two other candidates contesting the election. The respondent stood as a candidate of the Congress Party and was supported by an organisation known as Vidarbha Andolan Samiti, Shri Rajabhau Khobaragade was a candidate of the Samyukhta Maharashtra Samiti, while Shri Awade was an independent candidate.

4. The respondent did not appoint any election agent.

5. The counting of votes polled at the election was started on 2nd February 1959 and was completed on 3rd February 1959, when the result of the election was declared. The respondent was declared to be the successful candidate.

6. In the course of the propaganda carried on by the respondent for his election, systematic appeals were made by the respondent and with the consent of the respondent by his agents and other persons who were canvassing votes for him, to vote for the respondent and to refrain from voting for Shri Rajabhau Khobaragade on grounds of caste, race, community and religion. The respondent and with his consent his agents and other persons working for him used the election symbol of the respondent, *viz.*, two bullocks with yoke on and appealed to it as a symbol of Buddhist religion and the Hindu religious symbol of cow was used and appeal made to it for the furtherance of the prospects of the respondent's election. These appeals, uses and appeals were made at various meetings held at Nagpur and other places, particulars of which are given in Schedule I, by articles and items published in the newspapers (filed herewith) *viz.*, Dainik Vidarbha Andolan and Daily Maharashtra, published at Nagpur, particulars of which are given in Schedule II and by pamphlets and handbills published at Nagpur, the particulars of which are given in Schedule III.

7. In the same issues of the said daily "The Dainik Vidarbha Andolan" detailed in Schedule IV. The Editor and publisher of the paper published with the consent of the respondent statements of fact which were false and which the respondent and the persons editing and publishing the newspaper believed to be false or did not believe to be true, in relation to the personal character and conduct of Shri Rajabhau Khobaragade and in relation to his candidature. The statements were reasonably calculated to prejudice the prospects of Shri Rajabhau Khobaragade's election.

8. The respondent, and with the consent of the respondent his agents and other persons hired or procured, on payment or otherwise vehicles for the conveyance of electors other than the respondent himself, the members of his family and his agents, to and from the polling stations and place fixed for the poll mentioned in Schedule V.

9. The respondent incurred and authorised expenditure in connection with the election in contravention of section 77 of the Act. The particulars as to such contravention are given in Schedule VI.

10. On the dates on which the poll was taken the respondent, and with his consent his agents and other persons working for him exhibited on the Ballot Chits, issued by them to persons intending to vote at the election, the election symbol of the respondent, within the polling stations and in public and private places within the distance of 100 yards from all the polling stations, in contravention of section 130(1)(e) of the Act. Thereby the respondent and with his consent other persons working for him interfered or attempted to interfere with the free exercise of the electoral right and committed the corrupt practice of undue influence.

11. On account of the commission of the above corrupt practices the respondent's election is liable to be declared void.

12. The petitioner further submits that the electoral rolls prepared for the election were extremely defective in that, they excluded the names of thousands of persons who were eligible to vote at the election from different wards, excluded all the voters from several localities, and gave grossly inaccurate descriptions of persons whose names were included in the electoral roll. Polling booths for a number of voters were kept so far away from their places of residence that a number of them were unable to vote at the election.

13. The Returning Officer for the Constituency did not provide a sufficient number of polling station in the constituency so as to enable all persons eligible to vote to exercise their right of vote.

14. The Rules made under the Representation of the People Act, 1951 adding Rule 41-A were not placed before both Houses of Parliament as required by section 169(3) of the Act.

15. The Polling Officers and Presiding Officers at various polling stations did not overlook mere clerical or printing errors in the electoral rolls in deciding the right of a number of persons to obtain a ballot paper, though they were satisfied that such persons were identical with the elector to whom such entries related.

16. On account in the commission of the above corrupt practices and the instances of non-compliance with the provisions of the Constitution, the Act and the Rules and Orders made under the Act, the result of the election in so far as it concerned the respondent, has been materially affected.

PRAYER

It is, therefore, prayed that the election of the respondent be declared void and the costs of the petitioner be saddled on the respondent.

NAGPUR;

The 18th March, 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

Verification

I, Baburao, son of Tatyaji Bhonsle, of Nagpur do hereby solemnly declare that the contents of the above paragraphs 1, 2, 3 and 5 are true to my personal knowledge, those of paragraphs 11, 14 and 15 are true to the information received by me and believed to be true, those of paragraphs 6 to 8, 10, 12, 13 and 16 are partly true to my personal knowledge and partly to the information received by me and believed to be true, and the contents of paragraphs 4 and 9 are true to the information obtained from the records with the Returning Officer, Nagpur. Verified and signed at Nagpur, this 18th day of March 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

SCHEDULE I. (Para 6 of the petition).

Date

Place of meeting.

19-I-1959	.	.	.	At Umcr.
22-I-1959.	.	.	.	Town Hall, Nagpur.
23-I-1959.	.	.	.	Colibar chow-Basta, Nagpur.
24-I-1959.	.	.	.	Near Gandhi Bridge, Nagpur.
26-I-1959.	.	.	.	Chitnavis Park, Nagpur.
26-I-1959.	.	.	.	Shahed Chowk, Nagpur.
28-I-1959.	.	.	.	In Ganesh Mandir, Near Jamma Tank, Nagpur.
28-I-1959.	.	.	.	At Pardi, Nagpur.
29-I-1959.	.	.	.	Juni Mangalwari, Nagpur.
29-I-1959.	.	.	.	Village Gumgaon.
31-I-1959	.	.	.	Chitnavis Park, Nagpur.

Nagpur.

(Sd.) B. T. BHONSLE.

Dated 18-3-1959.

Petitioner.

Verification

I, Baburao Tatyaji Bhonsle do hereby solemnly declare that the contents of the above schedule are true to the information received by me and believed to be true. Verified and signed at Nagpur, this 18th day of March 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

SCHEDULE II

Showing the articles or items in Dainik Vidarbha Andolan and Dainik Maharashtra mentioned para to of the petition.

Sl. No.	Date of issue	Volume & No.	Page	Caption of articles and items
1.	19-1-1959	Vol. I No. 1	4	(i) Samyukta Amar Shekh Muthhe kalagi Tura. (ii) Kale Gorey.
2.	21-1-1959	Vol. I No. 2	1	— Aiyawar Balatkar.
3.	22-1-1959	Vol. I No. 3	4	Allaho Akbar.
4.	23-1-1959	Vol. I No. 4	3	Bai Me Nav-budha Honar.
5.	26-1-1959	Vol. I No. 7	1 3	Khobaragade Na Mat Dewoon Paksha Drob Wa Dharna Droha Karoon Naka. Boudhannio Khobaragadena Mate Dewo Naka.
6.	28-1-1959	Vol. I No. 8	1	Ganarajiyachya Divashi Sarvatra Vidarbha Rajyacha Jayaghosh.
7.	29-1-1959	Vol. I No. 9	2 4	Nag Vidarbha Rajyacha Meare Kari. (i) Nagpur Rashtriya Mehtar Sabha Wa Vidarbha Safai Mazdoor Sangh. (ii) Prantiya Kshatriya Pawar Samaj. (iii) Nabhik Samaj. (iv) Nagpur Christian Samaj. (v) Parsi Samajachi Jahir Nivedan. (vi) Teli Samajonmati Sabha, Nagpur.
8.	30-1-1959	Vol. I No. 10	4	(i) Gai Ha Hindu Dharmacha Mandbindu Ahe. (ii) Santryanchya Fodi.
9.	31-1-1959	Vol. I No. 11	4	(i) Gai Ha Hindu Dharmacha Manbindu Ahe. (ii) Loknayak Ancy Hindu Dharmache Adarsha Pratik. (iii) Khalapurushache Kharate Corporationscha Kachara Petit. (iv) Hindu Dharmatecl Don Bramharakshas.
			1	Muslim Samajache Nete Dr. Hasan Ynache Awahan.
10.	1-2-1959	Vol. I No. 12	1 2	Loknayak Bapuje Anaylach vote Dewo. Gowadh Pratibandh Ha Hindu Dharmacha Manibindu Ahe.
	1-2-1959	Vol. I No. 12	3	(i) Jatiyawadi Khobaragade la Kayamchi Apati Dya. (ii) Teli Samaja Cha Bapuji Aney Yannach Pathimba. (iii) Charmarker Bandhunna Vinanti.
			4	(i) Matang Samajas Vinanti. (ii) Niwadnuki Chya Gamati-Jamati.
11.	Issue of Vol. 46 No. 26 Daily Ma- harashtra		2	Nagpurchi Yeti Potniwadnook Wa Boudh-hanche Kartawaya.

Nagpur :
Dated 18-3-1959.

(Sd.) B. T. BHONSLE,
Petitioner.

Verification

I, Baburao Tatyaji Bhonsle do hereby solemnly declare that the contents of the above schedule are true to my personal knowledge. Verified and signed at Nagpur, this 18th day of March 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

SCHEDULE III

Giving the details of the pamphlets and handbills referred to in paragraph 6 of the petition.

1. Nagpur chi Yeti Pot Niwadnook wa Boudhhanche Kartawya.
2. Kombad Bazar Band Karnyat Congress Committee Cha Moolich Hat Nahi.
3. Vidarbha Ka Kayyam Musalmano Ke Hukuk Ke Jamanat Hai. (in Urdu).

Note—The three pamphlets referred to above are filed by the respondent along with his account of election expenses.

Nagpur
Dated 18-3-1959.

Verification

(Sd.) B. T. BHONSLE,
Petitioner.

I, Baburao Tatyaj Bhonsle, do hereby solemnly declare that the contents of the above Schedule are true to the information received from the records with the Returning Officer, Nagpur. Verified and signed at Nagpur, this 18th day of March 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

SCHEDULE IV (Para 7 of the Petition)

Sl. No.	Date	Volume and No.	Page	Caption of Articles & items
1	19-1-1959	. Vol. I No. 1	4	Samyukhta Amarshekhar Mutthe Kalagi Tura,
2	21-1-1959	,, No. 2	1	(i) Vidarbhachya AAd Yenarya Sam-yukhta Maharastrawadyancha Dhuww Udawa.
3	22-1-1959	,, No. 3	1	(ii) Atrywar Balatkar.
			4	(i) Barrister Khobaragadechya Awa-ghad Jagi Lattaprahar.
4	23-1-1959	,, No. 4	1	(ii) Udyachya Ankat.
5	25-1-1959	,, No. 6	1	(i) Alla Ho Akbar.
6	26-1-1959	,, No. 7	1	(ii) Vidarbhacha Khalanayak.
7	29-1-1959	,, No. 9	1	(iii) Atryanna Amaravatit Kheta-rancha Mar.
8	30-1-1959	,, No. 10	3	Vidarbha Andolan Karyalayat Barris-ter Khobaragade.
9	31-1-1959	,, No. 11	1	Bai Mee Nav Budha Honar.
10	1-2-1959	,, No. 12	3	Fund Gund Ani Company
				Atrebabe Wa Chalis Samyukhta Mahara-shtrwadi Yanchi Nagpurat Pratar-feri.
				Khobaragadechya Papala Wacha Futali.
				Chatrapatininchya Payathyashi.
				He Paha Raja Khobaragadeche Mahap.
				(i) Asha Dalalbajala Mat dewu Naka.
				(ii) Santryanchya Fodi.
				(i) Samyukhta Maharashtra Khabu Khobaragadecha.
				Parajaya Kara.
				(ii) Hindu Dharmateel Don Bramha-rakshas.
				(i) Jattayawadi Khobaragadelia
				Kayamchi Apati Dya.
				(ii) Karalche Note Wa Nagpuri Vote.

Nagpur,
Dated 18th March 1959.

Verification

(Sd.) B. T. BHONSLE,
Petitioner.

I, Baburao Tatyaji Bhonsle do hereby solemnly declare that the contents of the above schedule are true to my personal knowledge. Verified and signed at Nagpur this 18th day of March, 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

SCHEDULE V (Para 8 of the Petition).

Vehicles were hired or procured for the transport of electors to and from the following places :

- | | | |
|----------------------|----|-------------------------------------------------|
| 1 From Khamla | to | the Polling Station,
at Ramdaspeth and back. |
| 2 From Somalwada | to | the Polling Station in Ramdaspeth and back. |
| 3 From Shankernagar | to | Polling Station on Jail Road and back. |
| 4 From Jail Road | to | Polling Station in Dharampeth and back. |
| 5 From Takli | to | Somalwada and back |
| 6 From Garoba Maidan | to | the Polling Station at Tajbagh and back. |

Nagpur :

(Sd.) B. T. BHONSLE,

Dated 18-3-59.

Petitioner.

Verification.

I, Baburao son of Tatyaji Bhonsle, do hereby solemnly declare that the contents of item No. 1 of the schedule are true to my own knowledge and those of other items are true to the information received by me and believed to be true. Verified and signed at Nagpur, this 18th day of 1959.

(Sd.) B. T. BHONSLE,

Petitioner.

SCHEDULE VI

giving particulars of the contravention of Section 77 of the Act (Para. 9).

1. The respondent did not keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him between the date of publication of the notification and the date of the declaration of the results i.e. between 10th December 1958 and 3rd February 1959.
2. In any case the account was not kept from day to day.
3. The account did not contain the address of the payee in each item.
4. The account did not contain the address of the persons to whom the amounts outstanding were payable in each case.
5. The total of the expenditure incurred and authorized by the respondent exceeded the prescribed amount of Rs. 25,000.
6. The respondent excluded from the accounts kept by him numerous items of expenditure incurred and authorized by him in connection with the election and more particularly the following items of expenditure:—
 - (a) The expenditure incurred on the construction of Bajaj Gate at the site of 64th Congress Session at Abhyankar Nagar, Nagpur.
 - (b) The expenditure incurred on the construction of a gate near the Nagpur Railway Station for the reception of the Congress President.
 - (c) The cost incurred for parading 64 pairs of bullocks with the procession of the Congress President on 5th January 1959.
 - (d) Expenditure incurred on the printing and publications of Dainik Vidarbha Andolan from 19th January to 3rd February 1959.
 - (e) Expenses incurred by the Vidarbha Andolan Samiti on printing and publishing posters for propagating the respondent's candidature and other expenses incurred by the said Samiti on the respondent's election.
 - (f) Expenditure incurred on printing the ballot chits distributed to the voters from the polling booths, bearing the respondent's election symbol and the title Akhil Bhartiya Congress Committee.
 - (g) The costs of paper and litho printing of the badges depicting the respondent's election symbol with the words "Congress Ko Vote Do".
 - (h) The expenses of the procession of a pair of bullocks on the night of 31st January, 1959.

- (i) The expenses incurred on telegrams and trunk-calls by the respondent.
- (j) Expenses incurred for printing and publishing in Daily Maharashtra, dated 28th January 1959 of the article "Ycti Nagpurchi Pot Niwad-nook Ani Boudhhanche Kartawya".

7. The account lodged by the respondent with the Returning Officer is not, in any case, a true copy of the account kept by the respondent of the expenses incurred or authorized by him for the election.

NAGPUR;

The 18th March, 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

Verification

I, Baburao Tatyaji Bhonsle, do hereby verify that the contents of the above schedule are true to the information received by me from the account of the election expenses lodged by the respondent with the Returning Officer. Verified and signed at Nagpur, this 18th day of March, 1959.

(Sd.) B. T. BHONSLE,
Petitioner.

[No. 82/5/59/5922.]

By Order,
DIN DAYAL, Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 1st April 1959

S.O. 742.—In exercise of the powers conferred by Section 3 of the Registration of Foreigners Act, 1939 (16 of 1939), the Central Government hereby directs that the following further amendments shall be made in the Registration of Foreigners Rules, 1939, the same having been previously published as required by the said Section, namely—

In the said rules—

In rule 6, in sub-rule (1),

- (a) in clause (a), for the words "but less than ninety days" the words "but not more than ninety days" shall be substituted; and
- (b) in clause (b), for the words "for a period of ninety days or more" the words "for a period of more than ninety days" shall be substituted.

[No. 6/23/59-F.1.]

FATEH SINGH, Jt. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi-3, the 13th March 1959

S.O. 743.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following further amendments in the Indian Frontier Administrative Rules, 1956, namely:—

Clause (vi) to Schedule III of the said Rules may be substituted by the following:

- "(vi) Officers drawn from the Defence Services shall be allowed to draw initial pay at a stage (in grade II or Grade I, as the case may be) to which they would have been entitled had they entered the Service from the date they received their Commission in the Defence Services or the first January following the completion of 23 years of age, whichever is later. In case of Officers who had put in some non-commissioned

service before they received their Commission in the Defence Services, half the period of such non-commissioned service rendered from the completion of 23 years of age, subject to a maximum of five years, will be treated as Commissioned Service. The difference between the initial pay so fixed and the actual pay drawn in the Defence Services will be treated as personal pay to be absorbed in future increases of pay other than special pay. Additional pay in the form of special pay or qualification pay will also be treated as personal pay to be absorbed in future increases in pay other than special pay.

The pay of such officers who are initially appointed to Grade II shall, on their promotion to Grade I, be fixed at the stage in Grade I which corresponds to the pay drawn in Grade II:

Provided that the pay so fixed shall not exceed the pay to which the Officer would have been entitled if he had been initially appointed to Grade I of the Service and his pay fixed under sub-paragraph (1) of this clause."

[No. 131-NEFA/59.]

S. H. JAGAD, Under Secy.

New Delhi, the 30th March 1959

S.O. 744.—In pursuance of Sub-Section (2) of Section 7 of the Port Haj Committees Act, 1932 (XX of 1932) the Central Government is pleased to nominate Shri M. M. Sethna, Deputy Docks Manager, Bombay Port Trust, Bombay, as a member of the Port Haj Committee, Bombay vice Shri A. M. Shaikh.

[No. F.18(20)-IAT/59.]

S.O. 745.—In pursuance of Sub-Section (2) of Section 7 of the Port Haj Committees Act, 1932 (XX of 1932), the Central Government is pleased to nominate Shri Laxman Iyer, Divisional Commercial Superintendent, Western Railway, Bombay Central, Bombay as a member of the Port Haj Committee, Bombay vice Shri R. N. Chaudhury.

[No. F.18(20)-IAT/59.]

P. N. KAUL, Dy. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 1st April 1959

S.O. 746.—Statement of the Affairs of the Reserve Bank of India, as on the 27th March 1959.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	15,59,58,000
Reserve Fund	80,00,00,000	Rupee Coin	2,01,000
National Agricultural Credit (Long-term Operations) Fund	25,00,00,000	Subsidiary Coin	4,93,000
National Agricultural Credit (Stabilisation) Fund	3,00,00,000	Bills purchased and Discounted.— (a) Internal	..
Deposits:—		(b) External	..
(a) Government		(c) Government Treasury Bills	5,18,22,000
(i) Central Government	53,82,87,000	Balances held abroad*	35,04,72,000
(ii) Other Governments	26,72,23,000	**Loans and Advances to Governments	24,77,27,000
(b) Banks	67,56,88,000	†Other Loans and Advances	113,44,31,000
(c) Others	119,06,91,000	Investments	251,69,62,000
Bills Payable	36,61,38,000	Other Assets	12,05,24,000
Other Liabilities	41,05,63,000		
Rupees	457,85,90,000	Rupees	457,85,90,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 13,48,44,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

Dated the 1st day of April 1959.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 27th day of March 1959.

ISSUE DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Notes held in the Banking Department	15,59,58,000	A. Gold Coin and Bullion:—	
Notes in circulation . . .	<u>1701,52,60,000</u>	(a) Held in India.	117,76,03,000
Total Notes issued . . .	<u>1717,12,18,000</u>	(b) Held outside India
TOTAL LIABILITIES . . .	1717,12,18,000	Foreign Securities	<u>178,00,89,000</u>
		TOTAL OF A	295,76,92,000
		B Rupee Coin.	130,09,09 000
		Government of India Rupee Securities,	129,12,17,000
		Internal Bills of Exchange and other commercial paper
		TOTAL ASSETS	1717,12,18,000

Dated the 1st day of April 1959.

H. V. R. LENGAR,
Governor.

[No. F. 3(2)-BC/59.]

A. BAKSI, Jt. Secy.

CENTRAL BOARD OF REVENUE

ESTATE DUTY

New Delhi, the 1st April 1959

S.O. 747.—In exercise of the powers conferred by sub-section (1) of section 85 of the Estate Duty Act, 1953 (34 of 1953), the Central Board of Revenue hereby directs that the following further amendments shall be made to the Estate Duty Rules, 1953, S.R.O. 556 of 1954 as amended, S.R.O. 3578 of 1957, the same having been previously published as required by the said sub-section, namely:—

In the said Rules,

1. for rules 3, 4, 5 and 6, the following rules shall be substituted, namely:—

“3. Where an Assistant Controller finds that the principal value of the estate in any case pending before him exceeds or is likely to exceed the pecuniary limits of his jurisdiction, he shall transfer the case to the Deputy Controller having jurisdiction over the estate.

4. (a) The Deputy Controller to whom the case of an estate has been transferred under rule 3, may continue the proceeding so transferred from the stage at which it stood immediately before the transfer or recommence the proceeding:

Provided that before recommencing any proceeding, the accountable person shall be given a reasonable opportunity of being heard.

(b) The jurisdiction of the Deputy Controller to whom the case of an estate has been transferred under rule 3 shall not be called in question merely on the ground that the principal value of the estate as determined by the Deputy Controller is less than the value specified for the purpose of his jurisdiction.

5. Notwithstanding that an Assistant Controller or a Deputy Controller is not exercising the functions of the Income-tax Officer or the Inspecting Assistant Commissioner, as the case may be, in respect of the assessment under the Income-tax Act of a deceased person, he shall exercise the functions of the Controller in respect of the estate of the deceased if the case relating to the estate is specifically assigned to him under the second proviso to sub-section (2) of section 4 of the Act.

6. (1) Notwithstanding anything contained in rule 3 or in any other rule, the Board may at any stage of the proceeding relating to the case of any estate transfer it from one assessing authority to another and thereupon the provisions of rule 4 shall, so far as may be, apply.

(2) Whenever, a Deputy Controller or an Assistant Controller ceases to exercise jurisdiction in respect of any proceeding under the Act and is succeeded by another who has or exercises such jurisdiction, the Deputy Controller or Assistant Controller so succeeding may continue the proceeding from the stage at which it was left by his predecessor:

Provided that the accountable person may, when the succeeding Controller commences to exercise jurisdiction, demand that the previous proceeding or any part thereof taken before his predecessor be recommenced or that before any order imposing the duty is passed, he be re-heard.”

2. in rule 7, clause (d) shall be omitted.

3. rule 31 shall be renumbered as sub-rule (1) therof and after sub-rule (1) as so renumbered, the following sub-rule shall be inserted, namely:—

“(2) The policy together with the above-mentioned assignment shall be forwarded to the Controller of Estate Duty for the purpose of acceptance on behalf of the President of India. The acceptance on behalf of the President by the Controller shall be recorded in the following form:

‘I, C. D. Controller of Estate Duty..... hereby accept the above-mentioned assignment on behalf of the President of India under clause (f) of sub-section (1) of section 33 of the Estate Duty Act, 1953.’”

4. in rule 35, for the words 'the Assistant Controller or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of the insurer' and for the words 'the Assistant or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of the insurer' the words 'the Deputy Controller of Estate Duty concerned' shall be substituted.

Explanatory Note

(This note is not part of the Rules or amendments but is intended to indicate their general purport).

Amendment No. 1.—At present an Assistant Controller who is in Class II service can deal with estates whose value does not exceed rupees five lakhs and an Assistant Controller who is in Class I Service can deal with estates whose value does not exceed rupees ten lakhs. Estates of the value of over ten lakhs are dealt with by Deputy Controllers. With a view to avoid frequent transfers of cases from one officer to another, it has been decided to remove the distinction in the matter of jurisdiction between Assistant Controllers in Class II Service and Assistant Controllers in Class I Service and give all Assistant Controllers jurisdiction over estates whose value does not exceed rupees ten lakhs.

Amendment No. 2.—Rule 7(d), proposed to be deleted, provides that the interest of a member in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law, which ceases on his death is movable property notwithstanding that the family owns immovable property. As this sub-rule is in conflict with the provisions of section 21 of the Estate Duty Act, it has been decided to delete it.

Amendment No. 3.—This is a formal amendment designed to provide for the acceptance of the assignment on behalf of the President by the Controller of Estate Duty.

Amendment No. 4.—Rule 35 prescribes the particulars to be furnished by insurers in respect of insurance policies taken out by the deceased. Under the rule as it stands (before amendment), such particulars are to be furnished to the Assistant Controller or Deputy Controller of Estate Duty who is exercising the functions of the Income-tax Officer in respect of the insurer. The amendment provides that the prescribed particulars should be furnished to the Deputy Controller of Estate Duty concerned.

[No. 7/F. No. 12/1/59-ED.]

S.O. 748.—In exercise of the powers conferred by sub-section (2) of section 4 of the Estate Duty Act, 1953 (34 of 1953), the Central Board of Revenue hereby makes the following amendment in its notification No. 11-ED/21/52/57-ED, dated the 5th September, 1957, namely:—

In the said notification, for sub-paragraphs (2) and (3) of paragraph (1) the following shall be substituted, namely:—

"(2) every Assistant Controller shall perform his functions in respect of the estate of a deceased person where the principal value of the estate does not exceed rupees ten lakhs, if in respect of the assessment under the Income-tax Act of the deceased immediately before his death, he was exercising or would have exercised, had the deceased derived any taxable income, the functions of the Income-tax Officer under the Income-tax Act, or if the case of the deceased, whether before or after his death, is transferred to him for the purposes of assessment under the Income-tax Act."

Explanatory Note

(This note is not a part of the amendment but is intended to explain the purpose thereof).

At present an Assistant Controller who is in Class II Service can deal with estates whose value does not exceed rupees five lakhs and an Assistant Controller who is in Class I service can deal with estates whose value does not exceed rupees ten lakhs. Estates of the value of over ten lakhs are dealt with by Deputy Controllers. With a view to avoid frequent transfers of cases from one officer to another, it has been decided to remove the distinction in the matter of jurisdiction between Assistant Controllers in Class II Service and Assistant Controllers in Class I Service and give all Assistant Controllers jurisdiction over estates whose value does not exceed rupees ten lakhs.

[No. 8/F. No. 12/1/59-ED.]

D. SUBRAMANIAN, Secy.

COLLECTORATE OF CENTRAL EXCISE, CALCUTTA*Calcutta, the 19th March, 1959*

S.O. 749.—This Collectorate Notification No. 16/1958 dated the 17th November, 1958 is hereby rescinded.

[No. 4/59.]

N. MOOKHERJEE,
For Collector.

THE MADRAS CENTRAL EXCISE COLLECTORATE**CENTRAL EXCISE***Madras, the 28th March, 1959*

S.O. 750.—In pursuance of Rule 5 of the Central Excise Rules, 1944, I empower all Superintendents of Central Excise to exercise within their respective jurisdictions the powers of a "Collector" conferred by Rule 212 of the Central Excise Rules, 1944 in so far as they relate to the destruction of Confiscated tobacco, which, due to its deteriorated condition, fails to attract bidders to purchase it either on payment of duty or for rewarehousing it, subject to the condition that the weight of the tobacco to be destroyed does not exceed 25 standard maunds in each individual case.

[No. C.IV/16/207/58.C.E.(Pol)]

D. R. KOHLI, Collector.

THE MYSORE CENTRAL EXCISE COLLECTORATE: BANGALORE**CENTRAL EXCISE***Bangalore, the 30th March, 1959*

S. O. 751.—In pursuance of Rule 5 of the Central Excise Rules, 1944, and in partial modification of this office Notification No. 4/58 dated 3-4-1958, I hereby empower the Central Excise Officers of and above the rank specified in Column 1 of the table to exercise within their respective jurisdiction the powers of the Collector conferred by the provisions of the Rules enumerated in Col. 2 of the table subject to the limitations set out in Column 3 of the table.

TABLE

Rank of Officer	Central Ex- cise Rules	Limitations.
1	2	3
1. Asst. Collector of Central Excise	12-A	For grant of rebate in respect of exports through ports other than the major ports.
2.	212	In cases where the weight of the tobacco to be destroyed exceeds 25 standard maunds.
3. Superintendent of Central Excise	212	In cases where the weight of the tobacco to be destroyed does not exceed 25 standard maunds.

[No. 2/59.]

D. N. KOHLI, Collector.

CENTRAL EXCISE COLLECTORATE, BOMBAY

CENTRAL EXCISE

Bombay, the 31st March, 1959

S.O. 752.—In exercise of the powers conferred by rule 233 of the Central Excise Rules, 1944, read with Rule 96 *ibid*, as in force in India and as applied to the State of Pondicherry, the undersigned hereby directs that manufacturer's of cotton fabrics on powerlooms paying duty at the compounded rates shall with effect from 1st April 1959 show in the R.G. 18 register, production, issue and balance of cotton fabrics separately for each Tariff category and sub-category, that is to say, for Superfine, Fine, Medium 'A', Medium 'B' and Coarse by opening separate sections in the same Register or by maintaining separate R.G. 18 Registers and shall also submit the R.T. 3 return showing separately the five tariff categories and sub-categories as noted above.

[No. CER-233/1-Powerlooms/59.]

T. C. SETH, Collector.

CENTRAL EXCISE COLLECTORATE, DELHI

ADDENDUM

CENTRAL EXCISES

Delhi, the 2nd April, 1939

S.O. 753.—In the list of non-excisable goods—intermediate and residual products of excisable commodities appended to the Delhi Collectorate Notification No. S.R.O. 1667 dated the 17th June, 1956 published on pages 1250-51 in the Gazette of India, Part II Section 3, against item 'Vegetable Non-Essential Oils', 'semi Crushed Oil seeds for preparing cattle feed', should be inserted.

[C. No. VI(Y)21/3/59/15475]

B. D. DESHMUKH, Collector.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 1st April 1959

S.O. 754.—In exercise of the powers conferred by section 3 of the Essential Commodities Act 1955, (10 of 1955), the Central Government hereby makes the following further amendments in the Notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1150 dated the 30th May, 1955, namely :—

I. In the said Notification—

- I. in form CST-C, in Part I, for item (5), the following shall be substituted, namely :—
“(5) Closing stock of unsold yarn etc. on Mill's account (Single and Folded)

Loose (lbs) Packed for

	Civil consump- tion	Export	Total (Packed)
	Ibs.	Ibs.	Ibs.
(1)	(2)	(3)	
(i) Upto 10s	
(ii) Over 10s to 20s	
(iii) Over 20s to 30s	
(iv) Over 30s to 40s	
(v) Over 40s	
TOTAL 5(i) to (v)	

NOTE.—The total quantity shown in Column (3) shall be the total of yarn packed for "civil consumption" and "Export" and not be the total of 'Loose' and 'Packed' yarn."

II. (1) in Form CST-D, in the Table appended to Part III, under the heading "Particulars", for item 4 the following shall be substituted, namely :—

- "4. Stocks of cloth in packed condition (Mills' account only).
- (a) Stocks for export
- (b) Stocks for Civil Consumption.
- (c) Stocks for others (*i.e.* other than shown in a & b) Total [(a)+(b)+(c)]"
- (2) the following Note shall be added below the Table,

IMPORTANT. The above stocks should be on *Mills' account* and *in packed condition* only and should not include any other stocks".

[No. 2(12)-TEX(A)/58-2]

V. V. NENE, Under Secy.

New Delhi, the 6th April 1959

S.O. 755.—The Central Government, having considered in consultation with the Forward Markets Commission, the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) by The Spices and Oilseeds Exchange Limited, Sangli, and being satisfied that it would be in the interest of the trade and in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a further period of one year ending the 10th April, 1960 in respect of forward contracts in turmeric.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(4)-TMP/FMC/59.]

T. S. KUNCHITHAPATHAM, Under Secy.

ORDERS

New Delhi, the 1st April 1959

S.O. 757/IDRA/6/11.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Shri N. Majumdar, Industrial Adviser (Textiles Production), Bombay, as a member of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 2820, dated the 31st August 1957 for the scheduled industries engaged in the manufacture and production of textiles made of wool, including woollen yarn, hosiery, carpets and druggets and directs that the following amendment shall be made in the said Order, namely:—

In paragraph 1 of the said Order under the category of members "being persons who in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries" after entry No. 14E relating to Shri M. Gopala Rao following entry shall be inserted, namely:—

"14F. Shri N. Majumdar, Industrial Adviser (Textile Production) Office" of the Textile Commissioner, Witter Road, Ballard Estate, Bombay.

[No. 4(21)IA(II)(G)/59.]

S.O. 757/IDRA/6/11.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Shri N. Majumdar, Industrial Adviser (Textiles Production), Bombay, as a member of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry

No. S.R.O. 2821, dated the 31st August 1957 for the scheduled industry engaged in the manufacture and production of textiles made of artificial silk, including artificial silk yarn and directs that the following amendment shall be made in the said Order, namely:—

In paragraph 1 of the said Order under the category of members "being persons who in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries after entry No. 11A relating to Dr. K. Venkataraman the following entry shall be inserted, namely:—

- "11B. Shri N. Majumdar, Industrial Adviser (Textile Production) Office of the Textile Commissioner, Wittet Road, Ballard Estate Bombay".

[No. 4(21)IA(II)(G)/59]

New Delhi, the 4th April, 1959

S.O. 758/IDRA/6/16.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby establishes for the scheduled industries engaged in the manufacture or production of Automobiles, Automobile Ancillary Industries and Transport Vehicle Industries, a Development Council which shall consist of the following members, namely :—

1. Shri S. Anantaramakrishnan, M/S. Simpson & Co. Ltd., 202/203, Mount Road, *Madras*.
2. Mr. E. Lang, M/S. Motor Industries Co. Ltd., P.I.B. No. 93, *Bangalore*.
3. Shri Pranlal Patel, M/S Ancillary Industries Association, Mattendas Mills Compound, Tulsipipe Lane, Lower Parel, *Bombay*-13.
4. Shri W. N. Talwar, M/S Payen Talbros Ltd., 71/3, Najafgarh Industrial Area, *New Delhi*-15.
5. Shri M. S. Shastri, M/S. Automobile Products of India Ltd., Bhandup, *Bombay*.
6. Shri N. K. Firodia, M/S. Bachraj Trading Corporation, 139, Dr. Annie Besant Road, *Worli, Bombay*-18.
7. Shri J. B. Motivala, M/S. Mahindra—Owen, Gateway Building, Apollo Bunder, *Bombay*.
8. Shri L. L. Narayan, M/S. Engine Valves Ltd., 5, Pattalos Road, *Madras*-2.
9. Shri Krishna Narain, The U. P. Motor Company, 4, Shah Naja Road, *Lucknow*.

10. Dr. B. D. Kalekar, Senior Industrial Adviser (Engg.) Development Wing, Ministry of Commerce & Industry, *New Delhi*.
11. Dr. Lal C. Verman, Indian Standards Institution, Manek Bhavan, Mathura Road, *Delhi*.
12. Shri S. K. De, M/S. Howrah Motors Ltd., P-6, Mission Row Extension P. B. 2263, *Calcutta*.
13. Shri T. S. Santhanam Director, M/S. T. V. Sundaram Iengar & Sons, West Veli Street, *Madurai*.
14. Col. V. P. S. Menon, Industrial Adviser (Engg.) Development Wing, Ministry of Commerce & Industry, *New Delhi*.
15. Shri N. T. Gopala Iengar, Deputy Development Officer, (Auto.) Development Wing, Ministry of Commerce & Industry, *New Delhi*.

16. Shri Kundan Lal Secretary, All India Motor Operators Union, 16A, Asaf Ali Road, *New Delhi*.
17. Shri M. M. Gupta Deputy Transport Commissioner, U. P. Roadways, *Lucknow*.
18. Shri M. D. Daftary, General Manager, Bombay State Road Transport Corporation, Central Stores, Ghod Bunder Road, Santa Cruz, *Bombay*.

being persons who, in the opinion of the Central Government are capable of representing the interests of owners of industrial undertakings in the said scheduled industries.

being persons who, in the opinion of the Central Government have special knowledge of matters relating to the technical or other aspects of the said scheduled industries.

being persons who, in the opinion of the Central Government are capable of representing the interests of consumers of goods manufactured or produced by the said scheduled industries.

and (b) two other members to be hereafter specified by the Central Government who will be persons capable of representing the interests of persons employed in industrial undertakings in the said scheduled industries.

2. Dr. B. D. Kalelkar shall be the Chairman of the said Development Council.

3. The Central Government hereby assigns the following functions to the said Development Council, namely —

- (1) Recommending targets for production, co-ordinating production programmes and reviewing progress from time to time.
- (2) Suggesting norms of efficiency with a view to eliminating waste, obtaining maximum production, improving quality and reducing costs.
- (3) Recommending measures for securing the fuller utilisation of the installed capacity and for improving the working of the industry, particularly of the less efficient units.
- (4) Promoting arrangements for better marketing and helping in the devising of a system of distribution and sale of the produce of the industry which would be satisfactory to the consumer.
- (5) Promoting standardisation of products.
- (6) Assisting in the distribution of controlled materials and promoting arrangements for obtaining materials for the industry ;
- (7) Promoting or undertaking inquiry as to materials and equipment and as to methods of production, management and labour utilisation, including the discovery and development of new materials, equipment and methods and of improvements in these already in use, the assessment of the advantages of different alternatives and the conduct of experimental establishments and of tests on a commercial scale.
- (8) Promoting the training of persons engaged or proposing engagements in the industry and their education in technical or artistic subjects relevant thereto.
- (9) Promoting the retraining in alternative occupations of personnel engaged in or retrenched from the industry.
- (10) Promoting or undertaking scientific and industrial research, research into matters affecting industrial psychology and research into matters relating to production and to the consumption or use of goods and services supplied by the industry.
- (11) Promoting improvements and standardisation of accounting and costing methods and practice.
- (12) Promoting or undertaking the collection and formulation of statistics.
- (13) Investigating possibilities of decentralising stages and processes of production with a view to encouraging the growth of allied small scale and cottage industries.
- (14) Promoting the adoption of measures for increasing the productivity of labour, including measures for securing safer and better working conditions and the provision and improvement of amenities and incentives for workers.
- (15) Advising on any matters relating to the industry (other than remuneration and conditions of employment) as to which the Central Government may request the Development Council to advise and undertake inquiries for the purpose of enabling the Development Council so to advise, and
- (16) Undertaking arrangements for making available to the industry information obtained and for advising on matters with which the Development Councils are concerned in the exercise of any of their functions.

[No. 4(17)IA(II)(G)/59]

K. C. MADAPPA, Dy. Secy.

(Department of Company Law Administration)

New Delhi, the 30th March 1959

S.O. 759.—In exercise of the powers conferred by sub-section (1) of Section 609 of the Companies Act (I of 1956), the Central Government hereby directs that the office of the Registrar of Companies, Kerala, now situated at Trivandrum, shall be closed there finally on Saturday, the 4th April, 1959 after office hours and shall be reopened at Ernakulam with effect from Monday, the 6th April, 1959.

[No. 4/24/58-G.]

P. B. SAHARYA, Under Secy.

(Indian Standards Institution)

New Delhi, the 31st March 1959

S.O. 760.—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that two licences, particulars of which are given in the Schedule hereto annexed have been renewed.

THE SCHEDULE

Sl. No.	Licence No. and Date.	Period of Validity		Name and Add- ress of the Licens- ee	Article covered by the Licence	Relevant Indian Standard
		From	To			
1	CM/L-72 13-3-1958	1-4-1959	31-3-1960	The Hindustan Electric Co. Ltd., Industrial Area, New Township, Faridabad	Threephase Induction Motors for Industrial Use from 1 H.P. to 10 H.P.	IS: 325-1956 Specification for Threephase Induction Motors for Industrial Use (Amended).
2	CM/L-75 14-3-1958	1-4-1959	31-3-1960	The Alkali & Chemical Corporation of India Ltd., 34 Chowringhee, Calcutta -16.	BHC Water Dispersible Powder Concentrates	IS: 562-1955 Specification for BHC Water Dispersible Powder concentrates.

[No. MDC/12(126)-L.]

New Delhi, the 1st April 1959

S.O. 761.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 16th to 31st March 1959.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards if any, superseded by the new Indian Standard	Brief Particulars			
			(1)	(2)	(3)	(4)
1	IS:920-1958 Specification for Common Salt for Animal Consumption.	..	This standard prescribes the requirements and the methods of test for common salt for animal consumption (Price Re. 1.00).			
2	IS:1201-1958 Methods for Testing Tar and Bitumen : Sampling.	..	This standard covers methods of sampling bitumen and bituminous materials, in their liquid, semi-solid solid states supplied in any of the following forms : (a) cans, small containers, drums and barrels ; (b) rail and road tank-cars ; (c) storage tanks bulk of all types ; and (d) bags and solid materials in loose form			

(1)	(2)	(3)	(4)
3	IS:1202-1958 Methods for Testing Tar and Bitumen : Determination of Specific Gravity	..	This standard covers the methods for the determination of specific gravity of asphalt, bitumen, bituminous products, road tar, coal tar, coal tar pitch, creosote and anthracene oil
4	IS:1203-1958 Methods for Testing Tar and Bitumen : Determination of Penetration	..	This standard covers the method for the determination of penetration of asphaltic bitumen and fluxed native asphalt and blown type bitumen
5	IS:1204-1958 Methods for Testing Tar and Bitumen : Determination of Residue of specified Penetration	..	This standard covers the method for the determination of residue of specified penetration of cutback bitumens
6	IS:1205-1958 Methods of Testing Tar and Bitumen : Determination of Softening Point	..	This standard covers the method for the determination of softening point of asphaltic bitumen and fluxed native asphalt, road tar, coal tar pitch and blown type bitumen
7	IS:1206-1958 Methods for Testing Tar and Bitumen : Determination of Viscosity	..	This standard covers the methods for the determination of viscosity of road tar and cutback bitumens
8	IS:1207-1958 Methods for Testing Tar and Bitumen : Determination of Equiviscous Temperature (EVT)	..	This standard covers the method for the determination of equiviscous temperature (EVT) of road tar
9	IS:1208-1958 Methods for Testing Tar and Bitumen : Determination of Ductility	..	This standard covers the method of determination of ductility of asphaltic bitumen and fluxed native asphalt, cutback bitumen and blown type bitumen
10	IS:1209-1958 Methods for Testing Tar and Bitumen : Determination of Flash Point and Fire Point	..	This standard covers the methods for the determination of flash point and fire point of asphaltic bitumen and fluxed native asphalt, cutback bitumen and blown type bitumen
11	IS:1210-1958 Methods for Testing Tar and Bitumen : Float Test	..	This standard covers the float test for bituminous materials

(Price
Rs. 5.50
per set of
these 20
standards)

(1)	(2)	(3)	(4)
12 IS:1211-1958 Methods for Testing Tar and Bitumen : Determination of Water Content (Dean and Stark Method)	..	This standard covers the method for the determination of water content of asphalt bitumen and fluxed native asphalt, crude coal tar, road tar, cutback bitumen, Digboi type cutback bitumen and creosote and anthracene oil	
13 IS:1212-1958 Methods for Testing Tar and Bitumen : Determination of Loss on Heating	..	This standard covers the method for determination of loss on heating of asphaltic bitumens	
14 IS:1213-1958 Methods for Testing Tar and Bitumen : Distillation Test	..	This standard covers the methods for the distillation test for crude coal tar, road tar, curback bitumen, Digboi type cutback bitumen and creosote and anthracene oil	
15 IS:1214-1958 Methods for Testing Tar and Bitumen: Determination of Matter Insoluble in Benzene	..	This standard covers the method for the determination of matter insoluble in benzene for creosote and anthracene oil	
16 IS:1215-1958 Methods for Testing Tar and Bitumen : Determination of Matter Insoluble in Toluene	..	This standard covers the methods for the determination of matter insoluble in toluene for road tar and pitch	(Price Rs. 5.50 per set of these 20 standards)
17 IS:1216-1958 Methods for Testing Tar and Bitumen : Determination of Solubility in Carbon Disulphide	..	This standard covers the methods for the determination of solubility in carbon disulphide for asphaltic bitumens and native asphalts	
18 IS:1217-1958 Methods for Testing Tar and Bitumen : Determination of Mineral Matter (ASH)	..	This standard covers the method for the determination of mineral matter (ash) for crude coal tar	
19 IS:1218-1958 Methods for Testing Tar and Bitumen : Determination of Phenols	..	This standard covers the method for the determination of phenols for road tar	
20 IS:1219-1958 Methods for Testing Tar and Bitumen ; Determination of Naphthalene	..	This standard covers the method for the determination of naphthalene in road tar	
21 IS:1220-1958 Methods for Testing Tar and Bitumen : Determination of Volatile Matter Content	..	This standard covers the method for the determination of volatile matter content of coal tar pitch	

(1)	(2)	(3)	(4)
22	IS:1271-1958 Classification of Insulating Materials for Electrical Machinery and Apparatus in Relation to their Thermal Stability in Service	..	This classification covers six classes of insulating materials generally used in electrical machinery and apparatus in relation to their thermal stability in service. (Price Rs. 2.00).
23	IS:1276-1958 Specification for Grease, S. No. 2.	..	This standard prescribes the requirements and the methods of test for grease, S. No. 2 used for lubrication of anti-friction bearing where the bearing is not likely to come in contact with water and where temperature involved precludes the use of calcium-base greases. (Price Rs. 1.50).

Copies of these Indian Standards are available for sale with the Indian Standards Institution, 'Manak Bhavan', 9 Mathura Road, New Delhi-I and also at its Branch Offices at (i) 40/40A Cawasji Patel Street, Fort, Bombay-I, (ii) P-11 Mission Row Extension, Calcutta-I and (iii) 2/21 First Line Beach, Madras-I.

[No. MDC/II(4)].

S. O. 762—In exercise of the powers conferred by sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies the issue of errata slips, particulars of which are given in column (4) of the Schedule hereto annexed, in respect of the Indian Standards specified in column (2) of the said Schedule.

THE SCHEDULE

Sl. No. and title of Indian Standard No.	No. and date of Gazette Notification in which establishment of Indian Standard was notified.	Particulars of Errata Slip Issued	
(1)	(2)	(3)	(4)
I IS: 1230-1957 Specification for Cast Iron Rain Water Pipes and Fittings	S. O. 1699 dated 23rd August 1958.	<p>Page 3, Table I, against the heading 'WEIGHT' Please read 'Minimum weight per 1.5 m effective length' for 'Minimum weight per 1.5 m length effective'</p> <p>Page 4, Table II, first three values under Dimension A please read '60' for '55'</p> <p>Page 4, Table III, first six values under Dimension A please read '60' for '55'</p> <p>Page 5, Table IV, first value under Dimension A please read '60' for '55'</p> <p>Page 5, Table V, first value under Dimension C; and first, second and fourth values under Dimension G please read '60' for '55'</p> <p>Page 6, Table VI, first value under Dimension A please read '60' for '55'</p>	

(1)

(2)

(3)

(4)

Page 6, Table VII, first two values under Dimension X please read '60' for '55'
 Page 7, Table VIII, first value under Dimension X please read '60' for '55'.

Copies of this errata slip are available, free of cost, with the Indian Standards Institution, 'Manak Bhawan', 9 Mathura Road, New Delhi-1 and also at its Branch Offices at (i) 40/40A Cawasji Patel Street, Fort, Bombay-1, (ii) P-II Mission Row Extension, Calcutta-1 and (iii) 2/21 First Line Beach, Madras-1

[No. MDC/11(10)]

New Delhi, the 3rd April 1959

S.O. 763—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that one licence, particulars of which are given in the Schedule hereto annexed has been renewed.

THE SCHEDULE

Sl. No.	Licence No. and date of issue	Period of Validity		Name and Address of the Licensee	Article covered by the Licence	Relevant Indian Standard Specification
		From	To			
1	CM/L-71 13 3-1958	1-4-1959	31-3-1960	M/s. Travancore Chemical & Manufacturing Co. Ltd., Mankummel, Post Box No. 19, Alwaye.	Copper Sulphate, Technical.	IS 261-1950 Specification for Copper Sulphate, Technical.

[No. MDC/12 (186)—L]

C. N. MODAWAL Dy. Director (Marks)

MINISTRY OF STEEL, MINES & FUEL

(Department of Iron & Steel)

New Delhi, the 6th April 1959

S.O. 764/ESS. COMM/IRON & STEEL—4, 5 & 7.—The following notification issued by the Iron and Steel Controller under clauses 4, 5 and 7 of the Iron & Steel (Control) Order is hereby published for general information:—

"NOTIFICATION"

In exercise of the power conferred on me under clauses 4, 5, and 7 of the Iron & Steel (Control) Order, 1956, I, A. S. Bam, I.C.S., Iron & Steel Controller hereby authorise any foundry owner who is borne on the list of the Development Wing of the Ministry of Commerce and Industry, New Delhi, or that of Directors of Industries of the State Governments, to acquire Pig Iron to the extent indicated in the periodical allotment letters issued by the Authorities mentioned above, subject to the following conditions:—

- (a) The Pig Iron thus acquired shall be consumed only at the foundry of the allottee as indicated in the relative allotment letter.

- (b) The allottee shall not dispose of or agree to dispose of or export or agree to export from any place to which the Iron & Steel (Control) Order, 1956, extends, any quantity of Pig Iron allotted to him except with prior permission of the Iron and Steel Controller.

A. S. BAM,
Iron and Steel Controller."

[No. SC(A)-19(3)/59.]
J. S. BAIJAL, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

(India Council of Agricultural Research)

New Delhi 2, the 30th March 1959

S.O. 765.—In pursuance of the provisions of Rule 22(4) of the Indian Central Coconut Committee Rules, 1945, the Central Government hereby publish the following audited accounts of Receipts and Expenditure of the Indian Central Coconut Committee for the year 1956-57, together with the Auditor's Report.

Inspection report on the Accounts of the Indian Central Coconut Committee, Ernakulam for the year 1956-57.

I. The audited statements of receipts and payments for the year 1956-57 are attached.

II. Cess collections

According to the records produced for inspection, a total amount of Rs. 1,84,574-14-0 was due to the Committee as on 31-3-1957 as arrears of cess relating to the period prior to 1-4-1956. The details of the amount are given below :—

	Rs.
Bombay	14,361 8 9
West Bengal	1,689 0 0
Baroda	216 9 0
Saurashtra	0 2 0
Travancore-Cochin Government	1,61,652 11 0
Madras	4,080 1 0
Andhra	2,247 0 3
Mysore	327 14 0
TOTAL	1,84,574 14 0

It was however observed that the statements furnished by the Collector of Central Excise, Madras, in respect of Madras and the former Travancore-Cochin areas are incomplete and that a revised and complete list is yet to be received from him. The dues mentioned above cannot therefore be considered final.

III. Grants-in-aid

The extent to which certificates of audit in respect of the grants are pending receipts as on 1-12-1958 is indicated below :—

1954-55	Certificates due from the States of Bombay and Assam.
1955-56	Certificates due from Kerala, Assam, Madras (Parasite breeding station, Thirunelveli) and Bombay (except investigation, of Band diseases).
1956-57	Certificates due from all stations except the Comprehensive cocoanut Nursery and the Parasite Breeding Station, Kasaragod.

(Sd)/-

Assistant Accounts Officer.

*Receipts and Payments of the Indian Central Coconut Committee for the year ended March 1957
(Part I).*

RECEIPTS.

Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.
Opening Balance as on 1-4-1956	2,24,452	15	7			
Add Security Deposit	300	0	0	2,24,752	15	7
Coconut Cess		8,30,927	6	7		
Other Receipts :—						
(a) receipts from publications		9,183	4	0		
(b) Miscellaneous receipts		610	6	11		
(c) Receipts from :—						
1. Central Coconut Research Station, Kasaragod.		47,320	2	9		
2. Central Coconut Research Station, Kayan-						
gulam.						
(i) Farm Produce		21,132	14	6		
(ii) Receipts from the Scheme for the con-						
trol of leaf disease of coconuts		4,797	9	0		
(d) Contribution from the Travancore-Cochin Govern-						
ment towards setting up of Central Coconut Re-						
search Station, Kayangulam.		1,06,017	6	5		
	TOTAL			12,44,742	1	9

*Receipts and Payments of the Indian Central Coconut Committee for the year ended March 1957
(Part I).*

PAYMENTS.

Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.
A. Administration	1,22,875	5	7			
B. T.A. of Non-Official Members	1,779	14	0			
C. Publicity & Propaganda	53,667	8	2			
D. Buildings Residential and Non-Residential	50,000	0	0			
Agricultural Research						
(a) Research Stations.						
(i) Central Coconut Research Station, Kasaragod.						
(a) Non-Recurring Expenditure		81,882	3	10		
(b) Recurring Expenditure		1,34,235	11	11		
(ii) Central Coconut Research Station, Kayangulam.						
(a) Non-Recurring Expenditure		9,246	4	4		
(b) Recurring Expenditure		1,69,147	12	3		
(c) Scheme for the control of leaf disease of						
coconut.		11,316	15	3		
(b) Grant-in-aid schemes						
(a) Research Schemes :—Regional Coconut Re-						
search Station in						
1. Orissa		10,783	0	0		
2. Travancore		75,000	0	0		
3. Andhra		8,191	0	0		
4. Bombay		12,111	0	0		
5. Assam		3,142	0	0	1,09,227	0

Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.
(b) Coconut Nurseries						
1. Madras -Comprehensive	26,134	0	0			
2. Iringalakuda, Cochin	982	0	0			
3. Kumta, Bombay	1,023	0	0			
4. Assam	2,264	0	0			
5. Orissa, Comprehensive Scheme	5,344	0	0			
6. Hebbal, Mysore	9,554	0	0			
7. Nandagon, Bombay	4,985	0	0			
8. West Bengal (Chandranagore)	22,323	0	0			
9. Scheme for the expansion of Coconut Nurseries, in Travancore-Cochin State	30,000	0	0			
10. Andhra, Comprehensive Scheme	6,348	0	0			
11. Ollukkara, Travancore-Cochin State	951	0	0			
12. Northern parts of West Bengal	2,694	0	0			
13. Wadakkancherry, T.C. State.	1,524	0	0	1,14,126	0	0
(c) Miscellaneous :—						
1. Scheme for the establishment of Zonal Parasite breeding Stations for biological control of Nephantis serinopa.						
1. Kasaragod, Madras State	1,672	0	0			
2. Razole-Andhra State	687	0	0			
3. Travancore-Cochin	6,390	0	0			
4. Tirunelveli, Madras State	1,513	0	0	10,262	0	0
Scheme for the development of Coconut cultivation in Andamans.				8,533	0	0
Do. West Bengal				15,149	0	0
Scheme for maintenance of a representative varieties of coconuts in Assam				680	0	0
Investigation of band disease of coconut palms in Bombay State				5,254	0	0
Repayment of Government of India loan By closing Balance with the State Bank of India, Cochin	2,37,904	7	4			
Impreset Indian Central Coconut Committee	750	0	0			
Central Coconut Research Station, Kasaragod	1,500	0	0			
Central Coconut Research Station, Kayangulam	1,500	0	0			
Advances Received Account						
Indian Central Coconut Committee	2,684	15	1			
Central Coconut Research Station, Kasaragod	1,006	0	0			
Central Coconut Research Station, Kayangulam	1,022	0	0			
Caution Money Deposit	50	0	0			
Advance for purchase of conveyance	569	0	0			
Festival Advance, Indian Central Coconut Committee	77	0	0			
Festival Advance, Central Coconut Research Station, Kayangulam	158	0	0			
Festival Advance, Central Coconut Research Station, Kasaragod.	16	0	0	2,47,237	6	5
TOTAL				12,44,742	1	9

Sd/-	Sd/-	Sd/-
Secretary,	Accountant,	Deputy Comptroller (O A D)
Indian Central Coconut Committee Ernakulam.	Indian Central Coconut Committee Ernakulam.	

Receipts and Payments Account of the Indian Central Coconut Committee for the year Ended March, 1957
(PART II)

Particulars	RECEIPTS			PAYMENTS			Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.	
	Rs.	As.	Ps.	Rs.	As.	Ps.								
In contribution from the Central Government towards Schemes under the Second Five Year Plan	2,41,265	0	0	I. By Administration								382	4	0
Less cost of revenue stamps deducted by the State Bank of India, Cochin	0	2	0	II. Agricultural Research :—										
	2,41,264	14	0	Research Stations:—										
				(i) Central Coconut Research Station, Kasaragod:—								44,256	0	0
				Non-recurring Expenditure										
				(ii) Central Coconut Research Station, Kayangulam:—								1,08,715	0	0
				Non-recurring Expenditure										
TOTAL	2,41,264	14	0	Closing Balance with the State Bank of India								87,911	10	0
				TOTAL								2,41,264	14	0

Sd/-

Secretary,
Indian Central Coconut Committee,
Ernakulam.

Sd/-

Accountant,
Indian Central Coconut Committee,
Ernakulam.

Sd/-

Deputy Comptroller (O.A.D.)

Receipts and Payments Account of the Indian Central Coconut Committee Provident Fund for the year ended 31st March, 1957.

RECEIPTS

PAYMENTS

Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.	Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.
To opening balance as on 1-4-1956 Post Office Savings Account . . .	5,596	0	0	By subscribers Account (Advance to Subscribers) . . .	10,213	0	0						
To Subscription Account—				Investments—									
Subscription Received . . .	19,777	3	0	Post Office National Savings Certificates	24,700	0	0						
Refund of advance with interest . . .	6,779	0	0	By closing balance in the Post Office Savings Bank Account . . .	8,248	8	0						
To Contribution account—													
Contribution received . . .	9,571	0	0										
special contribution by the Committee to subscribers													
In credit on post office Savings Bank Account for the year 1955-56 . . .	29	12	0										
	43,161	8	0										

INCOME AND EXPENDITURE ACCOUNT

EXPENDITURE

INCOME

To Interest credited to subscription account . . .	3,612	0	0	By Special contribution from the Committee for payment of interest . . .	1,408	9	0
To Interest credited to contribution account . . .	1,964	0	0	By Interest on Post Office National Savings Certificates . . .	4,065	0	0
Excess interest on Post Office Savings Bank Account taken credit in 1955-56	1	0	0	By Interest on Post Office Savings Bank Account . . .	103	7	0

5,577 0 0

Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.	Particulars	Rs.	As.	Ps.	Rs.	As.	Ps.	
BALANCE SHEET AS ON 31ST MARCH 1957														
LIABILITIES							ASSETS							
Subscription Account:—							Post Office National Savings Certificates:—							
As per last Balance Sheet . . .	87,935	0	0	As per last Balance Sheet . . .	1,25,050	0	0	Investment during the year . . .	24,700	0	0	1,49,750	0	0
Subscription received during the year . . .	19,777	3	0	Balance in Post Office Savings Bank Account								8,248	8	0
Refund of Advance with Interest . . .	6,779	0	0	Interest accrued on Post Office Savings Bank Account for 1956-57								103	7	0
Interest credited during the year . . .	3,612	0	0	Interest accrued on Post Office National Savings Certificates Upto 31-3-1957								13,625	0	0
	1,18,103	3	0											
Less advance to subscribers . . .	10,213	0	0											
	1,07,890	3	0											
Contribution Account:—														
As per last Balance Sheet . . .	52,301	12	0											
Contribution received during the year . . .	9,571	0	0											
Interest credited during the year . . .	1,964	0	0											
	63,836	12	0											
	1,71,726	15	0											
	1,71,726	15	0											

Sd/-
SECRETARY,
INDIAN CENTRAL COCONUT COMMITTEE, ERNAKULAM.

Sd/-
ACCOUNTANT,
INDIAN CENTRAL COCONUT COMMITTEE,
ERNAKULAM.

Sd/-
DEPUTY COMPTROLLER (O.A.D.)

(AJUDHIA PRASADA)
Under Secretary to the Government of India,

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 1st April 1959

S.O. 766.—In exercise of the powers conferred by section 7 of the Bombay Port Trust Act, 1879 (Bombay Act 6 of 1879), the Central Government hereby appoints the following persons to be members of the Board of Trustees of the Port of Bombay for a period of two years from the 1st April 1959:—

The Commissioner of Police, Bombay (Representative of the Government of Bombay).

Shri C. P. Srivastava, Senior Deputy Director General of Shipping, Bombay (Representative of the Mercantile Marine Department, Bombay).

The Sub-Area Commander, Bombay (Representative of the Defence Services).

The Flag Officer, Bombay (Representative of the Defence Services).

[No. 8.C-PG(5)/59-I.]

S.O. 767.—In pursuance of sub-section (3) of section 6 of the Bombay Port Trust Act, 1879 (Bombay Act 6 of 1879), the Central Government hereby publishes the following returns received from (i) the Bombay Municipal Corporation, (ii) the Indian Merchants' Chamber, Bombay (iii) the Bombay Chamber of Commerce & Industry, Bombay (iv) the Indian National Steamship Owners' Association, Bombay (v) the Maharashtra Chamber of Commerce, Bombay (vi) the East India Cotton Association, Bombay (vii) the Millowners' Association, Bombay and (viii) the All India Sailing Vessels Industries Association, Bombay:—

Returns showing the names of persons elected in accordance with the provisions of the Bombay Port Trust Act, 1879 to be members of the Board of Trustees of the Port of Bombay for a period of two years from the 1st April 1959.

<i>Name of Electing Body</i>	<i>Name of persons elected</i>
Municipal Corporation of Greater Bombay.	Shri R. S. Pandey Dr. S. G. Patel Shri Devji Rattansey
The Indian Merchants' Chamber, Bombay.	Shri B. D. Somani Shri C. H. Bhabha Shri Ambala Kilachand
The Bombay Chamber of Commerce & Industry, Bombay.	Shri E. A. Jenkins Shri C. W. Couch
The Indian National Steamship Owners' Association, Bombay.	Shri H. M. Desai Shri Vikramsinh S. Vallabhdass
The Maharashtra Chamber of Commerce, Bombay.	Shri B. D. Garware
The East India Cotton Association Limited, Bombay.	Shri Madanmohan R. Ruia
The Millowners' Association, Bombay.	Shri Arvind N. Mafatlal
The All India Sailing Vessels Industries Association, Bombay.	Shri Damodar Mathuradas Ashar

[No. 8.C-PG(5)/59-II.]

MISS I. INDIRA, Under Secy.

(Department of Transport)

(Transport Wing)

New Delhi, the 4th April 1959

S.O. 768.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendment in the Schedule to the notification of the Government

of India in the late Ministry of Transport No. S.R.O. 610, dated the 28th February, 1957, namely:—

In Part II and III of the said Schedule, in the heading "Regional Sailing Vessels Organisation, Bombay/Tuticorin/Masulipatam," the following shall be omitted, namely:—

"Bombay/Tuticorin/Masulipatam."

[No. 40-MS(213)/57/SY.]

K. N. NAGAR, Under Secy.

(Departments of Communications & Civil Aviation)

New Delhi, the 4th April 1959

S.O. 769.—Whereas on March 29, 1959, an Indian Airlines Corporation Dakota VT-CGI while operating a scheduled passenger service from Agartala to Silchar, crashed in a Tea garden in Maneknagar, 15 miles South-West of Hailakandi, resulting in the death of all the twenty passengers and four members of the crew;

And whereas it appears to the Central Government that it is expedient to hold a formal investigation of the said accident:

Now, therefore, in exercise of the powers conferred by Rule 75 of the Indian Aircraft Rules, 1937, the Central Government directs that a formal investigation of the said accident be held.

The Central Government is further pleased to appoint Shri B. K. Choudhuri, a retired Judge of the Madhya Pradesh High Court, to hold the said investigation.

The Central Government is also pleased to appoint:—

- (1) Dr. V. M. Ghatare, Deputy General Manager and Chief Designer, Hindustan Aircraft Limited, Bangalore.
- (2) Group Captain M. S. Aulakh, Indian Air Force.
- (3) Shri Y. R. Malhotra, Chief Inspector of Accidents, Civil Aviation Department, New Delhi.

to act as assessors to the said investigation.

[No. 7-A/21-59.]

K. K. UNNI, Dy. Secy.

MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

New Delhi-2, the 12th January 1959

S.O. 770.—In pursuance of sub-rule (1) of rule 48 of Order XXI the first schedule of the Code of Civil procedure, 1908 (5 of 1908), the Central Government hereby appoints the officers specified in column 1 of the table below, as the Officer to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said table shall be sent:—

TABLE

Officer to whom notices should be sent	Officers whose salaries and allowances are attached
Director in charge of the Indian School of Mines and Applied Geology, Dhanbad.	Gazetted and Non-Gazetted officers of the Indian School of Mines and Applied Geology, Dhanbad.

[No. F. 25-142/58.T.6.]

M. V. D. NAIR, Assistant Educational Adviser (T).

MINISTRY OF WORKS, HOUSING AND SUPPLY*New Delhi, the 14th March, 1959*

S. O. 771.—In exercise of the powers conferred by the Proviso to Article 309 of the Constitution the President hereby directs that the method and field of recruitment for the post of Store Keeper in the Government Test House, Calcutta under the Directorate General of Supplies and Disposals shall be as shown in the annexure.

ANNEXURE*Recruitment Rules for the post of Store-Keeper in the Govt. Test House.*

1. Name of Post	Store Keeper.
2. No. of post.	One.
3. Classification whether Gazetted or Non-gazetted	Class III Non-ministerial Non-Gazetted.
4. Scale of pay	Rs 150-7-185-8-225.
5. Whether selection or non-selection post	Selection Post.
6. Age limit for direct recruitment	25 years (relaxable in favour of certain excepted categories, such as members of the Scheduled Castes/Tribes, displaced persons etc., to the extent prescribed in the orders issued by the Govt. of India, Ministry of Home Affairs).
7. Educational and other qualifications	<i>Educational :</i> Graduate in Science. <i>Experience :</i> At least 2 years experience in Store keeping and maintenance of stock registers for technical laboratory stores and equipments.
8. Whether age and educational qualifications prescribed for direct recruitment will also apply in case of recruitment by promotion or transfer.	The prescribed age limit will not apply in the case of promotion/transfer of departmental candidates but educational qualifications will apply.
9. Period of probation	One year.
10. Recruitment and percentage of vacancies to be filled by various modes.	By promotion if suitable candidates are available in the G.T.H. or by transfer from other Regional offices failing which by direct recruitment.
11. In case of vacancies filled by promotion, transfer etc. grades/sources from within promotion etc., are to be made.	<i>For promotion :</i> From U. D. Clerks of the G.T.H. <i>For Transfer :</i> U. D. Clerks/Assistant Store Keeper/Supervisor in other Regional Offices.
12. Circumstances under which U P S C. is to be consulted in making recruitment.	Does not arise.

(No IESII-49(14)/58.)

R. RAJAGOPALAN, Under Secy.

MINISTRY OF REHABILITATION**(Office of the Chief Settlement Commissioner)***New Delhi, the 31st March 1959*

S.O. 772.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Gulbahar Singh as Assistant Settlement Officer, for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office

[No 8/138/59-Admn(R)]

S.O. 773.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No 44 of 1954, the Central Government hereby appoints each of the following Officers for the time being holding the posts of Settlement Commissioners in the

regions noted against each, as Managing Officer for the custody, management and disposal of compensation pool:—

1. Shri H. R. Nair, Delhi.
2. Shri H. K. Chowdhry, Bombay.
3. Dr. Tara Chand, Jaipur.
4. Shri P. N. Khanna, Indore.
5. Shri Khushi Ram, Jullundur.
6. Shri Kulwant Singh, Patiala.
7. Shri R. S. Dass, Lucknow.

[No. 16(23)-Admn(Prop)/58.]

S.O. 774.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, the Central Government hereby appoints each of the following Officers for the time being holding the post of Assistant Settlement Commissioners in the Districts noted against each as Managing Officer, for the custody, management and disposal of Compensation pool:—

1. Shri G. L. Ajwani, Delhi.
2. Shri A. S. Lukanathan, Delhi.
3. Shri I. D. Chowdhry, Delhi.
4. Shri S. P. Passy, Delhi.
5. Shri H. C. Matta, Jullundur.
6. Shri H. R. Seth, Ludhiana.
7. Shri R. N. Mahna, Gurdaspur.
8. Shri Sohan Lal, Amritsar.
9. Shri K. D. Soni, Patiala.
10. Shri A. R. Malhotra, Rohtak.
11. Shri Gurdas Singh, Ambala.
12. Shri A. S. Gosain, Karnal.
13. Shri D. L. Bhalla, Rajkot.
14. Shri Y. R. Ahuja, Patna.

[No. 16(23)-Admn(Prop)/58.]

New Delhi, the 2nd April 1959

S.O. 775.—In exercise of the powers conferred by sub-section (i) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri I. B. Saxena as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

This office Notification No. 8/137/59-Admn(R) dated 30th March, 1959 is hereby cancelled.

[No. 8/137/59-Admn(R).]

New Delhi, the 3rd April 1959

S.O. 776.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Claims) Supplementary Act, 1954 (No. 12 of 1954), the Central Government hereby appoints Shri G. B. Lalwani as Settlement Commissioner for the purpose of performing the functions assigned to such Commissioner by or under the said Act.

[No. 11-A(54)/CSC/AI-59.]

S.O. 777.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri G. B. Lalwani as Settlement

Commissioner for the purpose of performing the functions assigned to such Commissioner by or under the said Act.

[No. 11-A(54)/CSC/AI-59.]

M. L. PURI,
Settlement Commissioner (Admn.) &
Ex-Officio Under Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 3rd April 1959

S.O. 778.—In exercise of the powers conferred on me by sub-section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), I have delegated to Shri G. B. Lalwani, Settlement Commissioner, with effect from 23rd March, 1959, the following powers of the Chief Settlement Commissioner:—

1. Power to call for the record of any case decided by the Settlement Officer and pass order in the case under provision to sub-section (3) of Section 4 of the said Act.
2. Special power of revision under Section (5) of the said Act, in respect of cases decided under the Displaced Persons (Claims) Act, 1950 (44 of 1950).

[No. 11-A(54)-59/CSC/AI-II.]

S.O. 779.—In exercise of the powers conferred on me by sub-section (2) of Section 10 of the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), I have delegated to Shri G. B. Lalwani, Settlement Commissioner, with effect from 23rd March, 1959, the following powers of the Chief Settlement Commissioner, namely:—

1. Power to transfer cases to Settlement Officers by general or special order under sub-section (1) of Section 4 of the said Act.
2. Power to require a Settlement Officer to appoint one or more persons to advise him in any proceeding pending before him, under sub-section (2) of Section 6 of the said Act.
3. Power to transfer any case pending before a Settlement Officer to another Settlement Officer under Section 7 of the said Act.

[No. 11-A(54)/CSC/AI-59-III.]

S.O. 780.—In exercise of the powers conferred on me by sub-section (2) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), I hereby delegate to Shri G. B. Lalwani, Settlement Commissioner with effect from the 23rd March, 1959, the following powers of the Chief Settlement Commissioner:—

1. Power to hear appeals under Section 23 of the said Act.
2. Power to hear revisions under Section 24 of the said Act.

[No. 11-A(54)/CSC/AI-59-IV.]

ORDER

New Delhi, the 3rd April 1959

S.O. 781.—In exercise of the powers conferred by sub-section (2) of Section 35 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, Shri L. J. Johnson, I.C.S., Chief Settlement Commissioner, hereby authorise Chaudhry Jhanda Singh, Assistant Settlement Commissioner, Jaipur to make a complaint in writing in a court of law against any person who furnishes in his application for payment of compensation or in declaration under Chapter X of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, any information which he knows or has reason to believe to be false or which he does not believe to be true.

[No. F. 10(28) Comp-II/56-Policy-I.]

L. J. JOHNSON,
Chief Settlement Commissioner.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 1st April 1959

S.O. 782.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a Labour Court with head-quarters at Delhi, and appoints Shri E. Krishnamurti as the Presiding Officer of that Court.

[No. LR-I-1(135)/58.]

A. L. HANNA, Under Secy.

New Delhi, the 4th April 1959

S.O. 783.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Labour Court, Nagpur at Bombay, in the industrial dispute between the employers in relation to the Balaghat Mine of Central Provinces Manganese Ore Company Limited, Nagpur, and their workmen in the matter of an industrial dispute relating to the transfer of Shri Saiyed Ally and his subsequent termination of service.

BEFORE SHRI P. D. VYAS, JUDGE, CENTRAL GOVERNMENT LABOUR COURT, NAGPUR AT BOMBAY

REFERENCE (LC) No. 1 OF 1958.

AN ADJUDICATION BETWEEN

The employers in relation to the Balaghat Mine of Central Provinces Manganese Ore Company Limited, Nagpur,

AND

Their Workmen.

In the matter of an industrial dispute relating to the transfer of Shri Saiyed Ally and his subsequent termination of service.

APPEARANCES:

Shri A. S. Bobde, Advocate with Shri M. L. Vaidya, Advocate—for the Management.

Shri S. G. Kukday, with Shri D. S. Nargolkar, and Shri Naqvi, Advocates—for the workmen.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government was pleased to refer an industrial dispute between the employers in relation to the Balaghat Mine of Central Provinces Manganese Ore Company Ltd., Nagpur and their workmen for adjudication under the Government Order No. LR-II-57-2(11)/57, dated 21st January, 1958 as amended by a subsequent corrigendum, dated 8th March 1958 under File No. LRII-57-2(11)/57. The dispute relates to the matters specified in the schedule annexed to the said order.

SCHEDULE

"Whether the transfer of Shri Saiyed Ally from Balaghat Mine to Tirodi Mine and his subsequent termination of service are justified? If not, what relief he is entitled to?"

2. The dispute in the present case relates to the transfer of an employee Shri Saiyed Ally from Balaghat Mine to Tirodi Group of Mines and his subsequent termination of service. He was in the employment of Balaghat Mine of Central Provinces Manganese Ore Company Limited (referred to hereinafter as the employers or the Company) since his appointment in 1953 as an Electric Welder. He is the Secretary of the Bharveli Manganese Udyog Rashtriya Kamgar Union and on the usual notices being issued, though he first filed the

statement of claims in his name, it has been subsequently adopted by the President of the Union under his letter received on 27th May 1958. The letter states:

"I beg to bring to your kind notice that the statement of claims filed by the workman Shri Saiyed Ali, Welder of Bharweli, has been filed by him as General Secretary of the Union. It is, therefore, requested that the Union adopts the statement as filed by the workman Shri Saiyed Ali, Welder."

To the letter is enclosed a copy of the resolution, dated 23rd May 1958 of the Executive Committee of the Union adopting the statement of claims filed by Shri Saiyed Ally. On behalf of the employers the Agent and General Manager has filed the written statement.

3. The case on behalf of the workmen is that Shri Saiyed Ally was appointed as an Electric Welder at the Bharweli Mine of the Company on a clear understanding that he would be posted permanently at Bharweli. Moreover, the Standing orders of the Company do not provide for the transfer of a workman from one undertaking to another. In spite of this he was served with a transfer order, dated 7th November 1956 to proceed to Tirodi. Though he submitted a representation against his transfer on account of his wife's illness, the same was not considered nor was he allowed to work. It was due to the intervention of the Conciliation Officer (C) that he was allowed to work at Bharweli but soon after the Management received the failure report of the Conciliation proceedings on 29th December 1956, he was served with a fresh order of transfer, of the same date calling upon him to join at Tirodi by 9th January 1957. On 2nd January 1957 he had to proceed to Nagpur on account of his sister's illness and when he returned at Bharweli on 7th January 1957 he was served with a charge-sheet and also called upon under the letter, dated 9th January 1957 that he should report at South Tirodi Mine at 8 A.M. on 11th January 1957 failing which he would be deemed to have deserted his post and treated as discharged. On 10th January 1957 he intimated the fact of his illness together with a medical certificate and also requested the management to stay the order of transfer but he was dismissed from service with effect from 14th January 1957. He never refused to carry out the transfer order and that he had all the while been making representations against the same which the management did not take into account.

4. Originally Shri Saiyed Ally was working in the Rashtriya Prantik Kamgar Sangh and was an active member thereof. Later he being dissatisfied with the policy of the said Union as detrimental to the interests of the workers as well as to the development of the trade union movement, left it and started a new one under the name of Bharweli Manganese Udyog Rashtriya Kamgar Union. It was because of his trade union activities that the management started a series of acts of victimization against him ultimately culminating in the order of his transfer which was *mala fide* and uncalled for. The alleged reason of the transfer viz. the need of a Welder at Tirodi Mine was just got up with a view to remove him from the field of his trade union activities. Moreover, certain circumstances prevented him from going on transfer to Tirodi but no opportunity was given to him to substantiate them. The action of the management is not only opposed to the principles of natural justice and in violation of the provisions of the standing orders but is actuated with an ulterior motive of victimization. The order of transfer and his subsequent termination of service are unjustified and the management be directed to reinstate him with full compensation and back wages.

5. The case on behalf of the Company is that Shri Saiyed Ali was appointed as Welder at Bharweli, i.e., Balaghat Mine of the Company but there was no understanding of posting him there permanently. The allegations made by the workmen in regard to the order of transfer are not true. The company has 22 Manganese Mines in the State of Madhya Pradesh and the Vidarbha region of the State of Bombay and at some of these mines the Company maintains workshops. It was because of the increase of work at the Company's Balaghat Mine that Shri Saiyed Ally was appointed as an Additional Welder on 23rd July 1953, the other two Welders being Shri Robert James and Shri Michael Louis. In the year 1955 the employment of an additional Welder at the Tirodi Group of Mines became necessary owing to the complicated additional construction work then in progress. Shri Saiyed Ally being an experienced and competent Welder his transfer was thought to be suitable and useful in view of the work at Tirodi as well as for want of sufficient work at the time at Balaghat for three Welders. He however all along agitated against the order of transfer on one ground or the other and continued at Balaghat till 29th December 1956

without complying with the order of transfer and intermittently absenting himself, at times with prior permission and at times without it. He was therefore served with a final notice by the Manager, Balaghat Mine, dated 29th December 1956 requiring him to proceed to Tirodi and report for duty there by 3rd January 1957. He however continued to flout the transfer order on one ground or the other and he was therefore served with a charge-sheet on 7th January 1957 to explain why action should not be taken against him under section 10(a) of the standing orders of the Company for disobedience of the order of transfer. In reply to this charge-sheet he submitted his explanation, dated 8th January 1957 and on consideration of the explanation the Mine Manager, Balaghat Mine informed him by his letter, dated 9th January 1957 that he was guilty of an obedience of his order, dated 29th December 1956. At the same time in view of the circumstances, *viz.*, the illness of his sister, the Mine Manager further stated in the said letter that he was prepared to extend the date of his reporting to the Mpc's Manager, Tirodi Group of Mines upto January 11, 1957 and if he failed to do so he would be deemed to have deserted his post, and would be treated as a discharged worker. Again by his letter, dated 10th January 1957 he refused to carry out the order of transfer on the ground of the alleged illness. The mine Manager did not accept the medical certificate submitted by him because as per the practice the Company accepts only the certificate from a Medical Officer of the Company before granting permission to remain absent on medical grounds. He was therefore informed by the Mine Manager by his letter, dated 14th January 1957 that he stood discharged from the employment under section 10(a) of the Company's standing orders. Thereafter on 20th January 1957 one Shri Lazarus was employed as an additional Welder at Tirodi Mines. In the circumstances the Company had no option but to confirm the discharge of Shri Saiyed Ally, as it was badly in need of the services of a Welder at its Tirodi Mine and could not brook further delay in that regard. His transfer from Balaghat Mine to Tirodi mine was in the normal course of business and his subsequent discharge was necessitated due to his persistent refusal to carry out the transf^c order in question. Besides, the present reference for adjudication is in-competent inasmuch as the alleged dispute is merely an individual dispute and not converted into an industrial one. For all the reasons the reference be rejected with costs.

6. The first question arising for our consideration is whether the dispute referred for adjudication is an industrial dispute within the meaning of section 2(k) of the Industrial Disputes Act, 1947. On behalf of the Company it has been contended that the subject-matter of the dispute being the transfer and subsequent termination of service of one individual workman Shri Saiyed Ally, it is an individual dispute and it has not been at any time taken up collectively by the workmen so as to convert it into an industrial dispute. In this connection reference may be made to the recent judgment of the Supreme Court of India in the case of the Newspapers Limited (1957 II LLJ. p. 1) where in laying down the true import of the definition of industrial dispute in Uttar Pradesh Industrial Disputes Act [which is defined as having the same meaning assigned to it as in section 2(k) of Industrial Disputes Act, 1947] their Lordships held:

"The Act is based on the necessity of achieving collective amity between labour and capital by means of conciliation, mediation and adjudication. The object of the Act is the prevention of industrial strife, strikes and lockouts and the promotion of industrial peace and not to take the place of the ordinary tribunals of the land for the enforcement of contracts between an employer and an individual workman. Thus viewed the provisions of the Act lead to the conclusion that its applicability to an individual dispute as opposed to dispute involving a group of workmen is excluded unless it acquires the general characteristics of an industrial dispute, *viz.*, the workmen as a body or a considerable section of them make common cause with the individual workman and thus create conditions contemplated by section 3 of the Uttar Pradesh Act which is the foundation of the State Governmental action under that Act."

The same considerations will apply in a reference made by the Government under the Industrial Disputes Act, 1947. In order that the dispute referred for adjudication under the present reference is an industrial dispute, what we have to see is whether the workmen as a body or a considerable section of them have made a common cause with the individual workman, in other words whether an individual dispute has been converted into a collective dispute so as to amount to an industrial dispute within the meaning of section 2(k) of the Act.

7. There is overwhelming evidence on record to indicate the fulfilment of the necessary condition and there can be no doubt that a considerable section of the workmen collectively in a body have taken up the cause of Shri Saiyed Ali. Soon after the order of transfer there was conciliation on 21st December 1958 the proceedings whereof indicate that three elected representatives of the workmen took up the matter before the Conciliation Officer and the preliminary objection raised by the management in this connection was disallowed. No doubt, the Conciliation Officer in his failure report, dated 22nd December 1958 has referred to Section 36 of the Act which deals with the representations of the parties in any proceeding under the Act, but this was not the case of mere representation or appearance on behalf of the concerned workman to conduct the proceedings. In fact these three elected representatives took up the cause of the concerned workman before the Conciliation Officer on behalf of the general body of workmen. It will be shown *infra* how Shri Saiyed Ally left the INTUC Union to which he originally belonged and took active part in forming another Union some time before the transfer order was made against him. A large majority of workmen were on his side and it was because of the fear on the part of the Management that if Shri Saiyed Ally succeeded in forming a second Union, that might affect its bargaining strength with the old Union which the Management recognised, that a transfer order was made to remove him from the field of his activities as a leading Union worker at Balaghat (Bhavali) Mine. The minutes of discussions in the said Conciliation Proceedings which took place on 21st December 1958 disclose that Shri Saiyed Ally did not seek the assistance of the other Union because of his disagreement with the same but he was supported by about 728 signatories who were the workmen engaged in Balaghat Mine and it was on the suggestion of the Conciliation Officer that his cause was represented by three elected representatives out of the said workmen.

8. Another important document on record is the statement of demands, dated 16th October 1957 which the elected representatives of the workers forwarded to the Government prior to the Government Order of reference for adjudication, dated 21st January 1958. In the statement of demands in narrating the previous history of the dispute and the trade union activities of Shri Saiyed Ally, it is made clear that the workers of the Union, i.e. Bharveli Manganese Udyog Rashtriya Kamgar Union with a membership of 813 members are affected by the dispute relating to Shri Saiyed Ally and a deputation of workers wanted to meet the management and applied several times for the purpose but the management paid no heed to the same and as the conciliation proceedings have failed, the matter be ordered to be placed before the Labour Court immediately so that he may be reinstated with back wages and justice done to him. There are papers on record which go to show that soon after the transfer order was made against Shri Saiyed Ally, the workers protested against the same saying that it was an act of victimization simply to break the workers' Union and when ultimately his services were terminated on 14th January 1957 there was a meeting held on 16th January, 1957 where it was decided unanimously that the Union should take up the matter of Shri Saiyed Ally before the Conciliation authorities as also right up to the Labour Court. On the same day a letter was addressed by the members of the Works Committee to the Mine Manager saying that the demand which they made was not only their demand in their capacity as representatives of the workers but that it was a collective demand of all the workers. There was a general meeting of the workers held on 3rd February, 1957 which protested against the termination of the services of Shri Saiyed Ally and moreover decided that unless the Company complied with their request, the matter should be placed before proper authorities in order to obtain justice. Since after the present order of reference, the general meeting of the workers held on 6th February, 1958 thanked the Government for the same and authorised the Executive Committee to fight out the matter on behalf of Shri Saiyed Ally. In a meeting of the Executive Committee held on 27th April, 1958 it was decided to give all assistance to Shri Saiyed Ally in the dispute before this Tribunal and during the pendency of this reference hundreds of workers have addressed letters to this Tribunal saying that they are prepared to appear before the Tribunal in proof of the fact that they are supporting the present dispute and have taken up the cause of Shri Saiyed Ally.

9. On behalf of the Company Shri Suraj Lal Gupta, General Secretary of the Rashtriya Khadan Prantik Kamgar Sangh has been examined. It was this Union which Shri Saiyed Ally left because of his disagreement with the same and admittedly he was not a member thereof when the present dispute arose. This Union may not have taken up his cause for obvious reasons but there is a large number of workers who did support his cause and have treated the question of

his transfer and subsequent termination of service as a collective dispute. This is the Union recognized by the Management and its total membership in the industry mainly consists from amongst the mines belonging to the present company. So far as the Balaghat Mine where Shri Saiyed Ally was working is concerned, this Union out of about 1700 to 1800 workers employed there had the membership of about 500 to 600 in the year 1956-57. Shri Gupta wanted us to believe that in connection with the transfer of Shri Saiyed Ally he had satisfied himself that it was for good reasons and therefore he did not take up the dispute. But in this connection only his cross-examination has to be read and it is evident that he has no personal knowledge in the matter nor he himself has made any independent inquiry and that he simply relied on what the management gave him to understand. He further admits that they take up the dispute of the members only and in the case of non-members they would do so if approached for the purpose. Shri Saiyed Ally having left this Union and formed a rival union, he could hardly be expected to approach this Union for taking up his cause. Really speaking it was not necessary for him to do so, when a large majority of the workers supported his cause irrespective of this union with a membership of only about 500 to 600 out of 1700 or 1800 workers. On behalf of the workmen there is the evidence of Shri A. Das Gupta who is in the employment of the Company as charge-hand-electrician at Bharveli since 1954. According to him, the new Union of which he is the vice-President and Saiyed Ally the Secretary had got the membership of about 711 workers and that now the membership has gone up to more than 1100. Much was made of the registration of the new Union in May 1957 but a Union is not formed in a day and its formation is a gradual process which takes some time. There is nothing wrong if this witness stated in his examination-in-chief that their Union was formed in June 1956 and registered about the end of 1956 or in 1957, though he was not quite sure of the exact date of registration until he was shown the letter from the Registrar in his cross-examination. One outstanding fact does present itself from the developments which will be referred to infra that this formation of the Union must have started sometime before the management in the guise of an order of transfer tried to remove Shri Sayied Ali from the field of trade union activities and thus prevent any such new Union from gaining ground as against the old union which the company recognized and with which it used to bargain. The workmen's witness Shri Murari Lal who was the President of the Old Union from 1950 to 1955 and who is now the Joint Secretary of the new Union deposes that all the workers had protested against the transfer of Shri Sayid Ali and that their Union had passed a resolution for this purpose. On the point of the workmen's protest against the order of transfer there is also the evidence of the workers' witness Shri Dasu Peter. Lastly Shri Saiyed Ali in his evidence has spoken in proof of the varlors documents on record indicating that his dispute had been taken up by other workers. In my opinion there is enough material to establish that this is not merely an individual dispute which has been referred by Government for adjudication but it is a collective dispute initiated and espoused by a large number of workmen who still continue to support the same.

10. The real question for our consideration in the present dispute is whether the order of transfer under which Shri Saiyed Ally was asked to go to Tirodi was a bona fide order of transfer arising in the normal course of administrative exigencies and, if so, there has been any disobedience on the part of Shri Saiyed Ally in not complying with this order so as to justify the management's action of terminating his services on 14th January, 1957. Shri Nargolkar for the workmen challenged the management's right of transfer itself and according to him in the absence of a contract expressed or implied, there is no such inherent right vested in the management to transfer an employee from one undertaking to another. It is true that the Standing Orders of the Company do not specifically provide for any transfer nor is it the Company's case that transfer formed part of contract expressed or implied. There are however number of authorities which go to support the employer's right to transfer—*vide* 1950 I LLJ 192, 1954 I. LLJ 56, 1954 LAC 903, 1954 ILLJ 659, 1954 II. LLJ 355, 1956 I, LLJ 591, and 1958 I. LLJ 377. The point needs no further discussion and I have not been satisfied why I should take a contrary view. The right of transfer by an employer in the normal course of business has always been recognized and if really in the present case the necessity for the transfer of the concerned workman Shri Saiyed Ali arose for good reasons and if with no justification be flouted or refused to carry out any such order, it should ordinarily be open to the management to take action against him.

11. In the present case however the position is entirely different. Here was an active trade union worker who was just sought to be victimised because of his trade union activities. There can be no direct evidence on the point of victi-

mization but it has to be gathered from the facts and circumstances of a case. In the case before us the facts and circumstances are so clear and eloquent as to speak for themselves and leave no room for any doubt that in the guise of a so-called order of transfer the management tried to remove Shri Saiyed Ali to another place from the field of his trade union activities at Balaghat mine where he was working as Welder since his appointment in the year 1953. It has been said that once before also he was transferred to Dongri Buzurg in 1954 but this was not a regular transfer. He was just sent there for a special work in the Company's Van along with welding apparatus from Balaghat and returned to Balaghat soon after the completion of the work in question. This was the only first order of regular transfer from Balaghat since he joined in 1953 but even after the order of transfer it never happened that he openly flouted the same. In his the then circumstances he was constrained to make representations and place his own difficulties due to one reason or the other. But the management paying no heed insisted on his going to Tirodi on transfer and eventually terminated his services in a wrongful manner without making any inquiry into the charge levelled against him.

12. It is a common ground that Shri Saiyed Ali was an active trade union worker right from the beginning and continued to work as such even after he left the old union in November, 1955. It could not be denied that he was popular amongst the workmen and about the latter part of the year 1956 he was actively engaged in forming a new Union which was ultimately registered in May, 1957. He was also a member of the Works Committee but since some time about or after the middle of 1956 owing to the differences with the employers the Works Committee meetings were not attended by the workers' representatives and it was in the end dissolved on 15th October, 1956. The new Works Committee was to be elected on 25th October, 1958 and the nominations for the purpose were to be filed before 22nd October, 1956. It was anticipated on all hands that the same representatives of the workmen including Shri Saiyed Ali would be returned as members under the fresh election and the same dead-lock would continue. It was just about this time that the correspondence started all of a sudden as if there was an urgent need of an experienced Welder at Tirodi Group of Mines. On 20th October, 1958 the Mine Manager, Tirodi asked for an additional Welder and the Agent and General Manager immediately on 22nd October, 1956 wrote to the Mine Manager, Balaghat to spare Shri Saiyed Ali for being transferred to Tirodi. At this juncture the two Mine Managers at Tirodi and Balaghat addressed letters to each other dated 23rd October, 1958 and 24th October, 1958, which crossed, one asking to spare immediately Shri Saiyed Ali and the other inquiring when Shri Saiyed Ali should report at Tirodi. In this connection we have to rely only on the oral testimony of the Mine Managers concerned and if really there was some important work to be carried out at Tirodi Group of Mines requiring an experienced Welder, there would be some documentary evidence in that respect but none is forthcoming. The Managers examined are part and parcel of the management itself and whatever may be their position, their testimony has to be judged with great caution especially when they are the interested parties in carrying out the policy of the management. The Agent and General Manager though cited as a witness has not preferred to come in the witness box and we have to depend solely on the depositions of the two Managers of Tirodi Group of Mines and Balaghat Mine respectively Mr. Stead and Mr. Trott. We do not find any previous correspondence regarding the work going on at Tirodi Mine and we fail to see how all of a sudden an additional Welder became necessary there and how the Agent and General Manager at once selected Shri Saiyed Ali for this purpose. Mr. Trott the Mine Manager at Balaghat admits in his deposition that before the order of transfer no inquiry was made by the Head Office as to who was a competent and Senior Welder and he just evades the point by saying that this was already known. It is alleged that Shri Saiyed Ali was an experienced man and that there was not enough work for him at Balaghat but in this connection too no previous inquiry seems to have been made from the Mine Manager at Balaghat as to the quantum of work there and whether any Welder and who could be spared for the work at Tirodi. Now the Management comes forward with all praises regarding the competency of Shri Saiyed Ali as an experienced Welder but on the point of his previous record which need not be stated here in details we may just refer to the parties' written statements. There was a series of actions taken against him in the past which according to Shri Saiyed Ali were promoted with an ulterior motive because of his trade union activities. The management has tried to justify the same in its written statement and has produced the relevant papers in this connection. Whatever it may be, if really according to the management Shri Saiyed Ali had such bad past record, he would hardly in the normal circumstances be considered as a reliable person to be sent for an alleged important work and urgent at Tirodi however

competent he may be. There were other senior Welders and yet if he was chosen for this purpose, in the circumstances of the case the only inference that we can draw is that he was anyhow to be removed to some other place. Shri Saiyed Ali's leadership at Balaghat was responsible for coming into existence of a second union and the re-election of Shri Saiyed Ali in the Works Committee was almost certain. The previous Works Committee could not function owing to disagreement between the representatives of the labour and the management and if in the fresh election Shri Saiyed Ali was returned, the situation would continue to remain the same. Though the election for the Works Committee was originally fixed on 25th October, 1956, on the alleged technical ground it was postponed and according to the workmen's case this was deliberately done with a view to prevent Shri Saiyed Ali from being re-elected. Whether the reason for the postponement of the election was right or wrong, even in the fresh election Shri Saiyed Ali was chosen as a Member and as in the meantime he had already been served with a transfer order dated 7th November, 1956, the workman protested against his transfer and declared that unless and until the transfer was cancelled none of the members of the new Works Committee would be attending the meetings thereof in protest. In fact the meetings of this newly elected Works Committee could not take place because of the non-participation of the workers' representatives in protest against the action taken by the management against Shri Saiyed Ali.

13. It has been alleged that first on 31st October, 1956 Shri Saiyed Ali was verbally informed regarding his transfer and later when he returned from leave he was served with a transfer order dated 7th November, 1956 calling upon him to report at Tirodi on 8th November, 1956. Thereafter Shri Saiyed Ali made several representations placing his difficulties owing to his wife's illness, his sister's illness and his own illness but the management all throughout went on insisting that he should proceed on transfer to Tirodi. If his wife was ill, it was suggested that he should take the medical treatment of the company's Doctor and if in support of his illness he brought a medical certificate, it was alleged that the company would accept no medical certificate except from its own Medical Officer. Much was made of the fact that if Shri Saiyed Ali had any difficulty he should have first carried out the order of transfer and then the Mines Manager at the Tirodi would have considered his case and given such facilities as he desired for joining time. In the first place if the Mines Manager at Tirodi was prepared on consideration of the representations of Shri Saiyed Ali to give him the necessary facilities, there is no reason why the same facilities should not be extended by the Mine Manager at Balaghat. Any such plea itself indicates that there was no urgent necessity of a Welder at Tirodi and the main purpose behind was just to see that any how Shri Saiyed Ali left the Balaghat Mine. About the middle of December 1956 Mr. Edwards the Mine Manager at Balaghat returned from leave and took charge from Mr. Trott. About this time the election of the new Works Committee had already taken place on 13th December 1956 and Shri Saiyed Ali had been elected as one of its members. In prosecution of the policy behind his transfer Mr. Edwards again gave him a final notice on 29th December, 1956 to join and report at Tirodi by 3rd January 1957. Shri Saiyed Ali could not comply with the orders due to his sister's illness and asked for leave but it was not sanctioned and on 7th January 1957 he was charge-sheeted as under: (Ex. C-34)

"On 29th December 1956 you were given a final notice and informed to proceed immediately to South Tirodi Mine as already instructed and report for duty to the Mine Manager, Tirodi Group of Mines by 3rd January 1957.

This you have failed to do, you should therefore show cause in writing within 24 hours of receipt of this charge-sheet why action should not be taken against you under section 10(a) of the Company's Standing Orders i.e. disobedience of a lawful and reasonable order of a superior."

Shri Saiyed Ali gave his reply to the charge-sheet as per Ex. C-35. Without making any further inquiry the Mine Manager wrote the letter No. 6/216 dated 9th January 1957-vide Ex. C-36 which states *inter alia* that:

"..... You have therefore failed to carry out my instructions of 29th December 1956, and are guilty of disobedience of a reasonable order of a superior under Standing Orders section 10(a).

However, I am in the circumstances prepared to extend the date of your reporting to the Mines Manager Tirodi Group of Mines, who is in urgent need of a Welder, until 8 a.m. on the morning of Friday

January 11th 1957. If you fail to do this you will be deemed to have deserted your post, and will be treated as a discharged worker."

To this Shri Saiyed Ali gave his reply (Ex. C-37) dated 10th January 1957 but the Mine Manager wrote the letter No. 6/328 dated 14th January 1957 (Ex. C-40) stating:

"With reference to the last paragraph of my findings, letter No. 6/216 of 9th January 1957, as you have failed to carry out the orders to join duty at Tirodi on 11th January 1957, I hereby confirm that you are discharged from employment under section 10(a) of the Company's Standing Orders.

You should arrange to vacate the Company's quarters forthwith."

14. Section 10(a) of the Company's Standing Orders pertains to an item of misconduct viz. disobedience of the lawful and reasonable order of a superior Evidently thus under the said letter dated 14th January 1957 Shri Saiyed Ali was discharged from service for an alleged misconduct without making any inquiry into the charge levelled against him or about the representations made by him. The Mine Manager Mr. Edwards now in his deposition goes to the extent of saying that the discharge order dated 14th January 1957 was not passed in pursuance of the charge sheet given by him on 7th January 1957 but this is entirely untrue. On the contrary the correspondence on record indicates that the charge against Shri Saiyed Ali was assumed to be true without making any inquiry. Mr. Edwards further admits in his deposition that at the time of passing the discharge order he did not refer to the previous service record of Shri Saiyed Ali or to the correspondence in connection with his transfer apart from his letter dated 9th January 1957. Under the mandatory provisions of the Standing Orders of the Company an inquiry was incumbent and apart from any consideration, the order of termination in the absence of any inquiry is on the face of it unjustified and illegal. The order itself purports to have been made under the Standing Orders and it was absolutely obligatory on the part of the management to comply with the requirements of the Standing Orders before terminating the services of Shri Saiyed Ali on an alleged charge of misconduct. Though the word used is 'discharge' it is an order under the Standing Orders 10(a) relating to misconduct. For an ordinary discharge there is a separate Standing Order No. 9. If the alleged discharge was made under the Standing Order 10(a) for an alleged act of misconduct, the use of word discharge makes no difference. It is a punitive discharge amounting to a dismissal for an alleged misconduct. In such a case before taking the action an inquiry ought to have been made into the charge and the worker should have been given an opportunity to make defence to show how under the circumstances alleged by him it became impossible for him to carry out the order. In the case of Patna Electric Supply Company, Ltd.,—1958 I LLJ. 257 and at 259 their Lordships of the Supreme Court of India has made a distinction between what is called a discharge simpliciter and a punitive discharge. It was there held that "the discharge of the respondents was a discharge simpliciter in exercise of the rights of the employer under Cl 14(a) of the standing orders and was not a punitive discharge under Cl. 17(viii) thereof and if it was merely a discharge simpliciter then, no objection could be taken to the same and the appellant would be well within its rights to do so, provided, however, that it was not arbitrary or capricious but was bona fide". In the present case apart from want of bona fides, the order made is not a discharge simpliciter in exercise of the rights of employer under the standing orders No. 9 but it is a punitive discharge for an alleged misconduct falling under the standing order No. 10(a) and before inflicting any such punishment, an inquiry according to the standing orders was absolutely necessary. It was conceded even by the Company's representative that the termination of service was taken by way of disciplinary action following the misconduct with which Shri Saived Ali was charged. In the same Vol. at page 260 has been reported the case of Indian Iron and Steel Company, Ltd. and at page 270 their Lordships of the Supreme Court have observed: "Undoubtedly the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and when a dispute arises, industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief."

15. Thus in the circumstances of the case it is clear that the transfer order was made with an ulterior motive in order to remove Shri Saiyed Ali from the field of his trade union activities and eventually his services have been dispensed with in a wrongful and unjustified manner on 14th January 1957. We are not concerned with the policies of the two Unions or with the point as to which Union the management should recognize. The fact, however, remains that Shri

Saiyed Ali and his followers wanted to follow their own policy, namely not to rest satisfied merely with negotiations with the management as the other Union used to do but even to carry the matter further to Government and labour authorities if and when found necessary. We are not required to go into the correctness or otherwise of the views held by his party but the fact remains that he was an active trade union worker and the transfer came at such a time that it is difficult for us to accept in the absence of cogent and reliable evidence that it was a genuine order of transfer arising from the normal course of exigencies of the business. If really it was a *bona fide* order of transfer which the worker concerned deliberately flouted and refused to carry out, then certainly the management could conceivably take action for disobedience of a lawful and reasonable order of a superior even though the concerned worker happened to be a trade union worker. But in the present case the position as shown above was entirely different. Shri Saiyed Ali in his deposition speaks about his trade union activities and states how when the management could find no excuse to remove him, he was given an order of transfer which at no time he declined to carry out. There were other Senior Welders in the employment of the company and it is in evidence of Shri Saiyed Ali as well as Shri Michael Louis, another Welder Helper that there was enough work at Balaghat Mine. It may be noted that apart from a vague suggestion, there is documentary evidence forthcoming to establish the fact that the work at Balaghat had gone down so as to spare one Electric Welder for Tirodi Mines. No urgent necessity for a Welder at Tirodi has been satisfactorily established and the so-called appointment of one Shri Lazarus a long after i.e. the dismissal of Shri Saiyed Ali indicates that this was done just to lend colour to the management's story regarding Shri Saiyed Ali's transfer. Shri Lazarus has not been examined and we do not know how his appointment took place and what work he is doing at Tirodi. Apart from these facts Shri Saiyed Ali had his own difficulties in going on transfer to Tirodi and these difficulties he placed for consideration of the management but without giving any consideration to the same the Manager of the Balaghat Mine proceeded on the assumption that he disobeyed the order of transfer.

16. In my opinion the transfer of Shri Saiyed Ali as well as his subsequent termination of service are unjustified and he is entitled to the normal relief of reinstatement with full back wages. On behalf of the management it was urged that in no case he should be reinstated and if at all he may be allowed compensation in lieu thereof. There was a suggestion in the course of the hearing for this purpose but the management insisted on fighting the matter on merits and declined to pay anything by way of compensation to the workman concerned. Now that the worker succeeds on merits, it does not lie in the mouth of the management to say that he should get only compensation and not the normal right of reinstatement. In the case of East India Industries (Madras), Limited—1955 II LLJ 470—decided by the Madras High Court it has been held: "When a dismissed workman challenges the validity of the dismissal and the matter is adjudicated upon by an industrial tribunal and the tribunal arrives at a conclusion that the dismissal was not valid, the position is that the workman must be deemed never to have been dismissed at all and continues in service. It might be that an ordinary court of law would only award damages to the dismissed workman. But nothing prevents the tribunal from giving the alternative relief of declaration that the dismissal was wrongful and the consequential relief that he be continued in service. The argument on behalf of an employer usually is that he cannot be compelled to employ anyone against his will. But the proper way of looking at it is that an employer is not allowed to terminate the services of a workman except in a lawful manner."

17. In the result I direct that Shri Saiyed Ali shall be reinstated on his original post with full back wages and other benefits. The management shall also pay Rs. 200/- by way of costs to the workman.

(Sd.) P. D. VYAS,
Judge,

Central Government Labour Court Nagpur.

[No. L.R. II/57-2(11)/57.]

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 2nd April 1959

S.O. 784.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Nagpur at Bombay, in the industrial dispute between the

employers in relation to Zawar Mines, Udaipur of M/s. Metal Corporation of India, Limited and their workmen in the matter of an industrial dispute regarding wage structure and bonus for the year 1956-57.

**BEFORE SHRI P. D. VYAS, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NAGPUR AT BOMBAY.**

REFERENCE (CGIT) No. 14 OF 1958

AN ADJUDICATION BETWEEN

The Employers in relation to Zawar Mines, Udaipur of M/s. Metal Corporation of India, Limited, Udaipur,

AND

Their Workmen.

- . In the matter of an industrial dispute *re.* wage structure and bonus for the year 1956-57.

APPEARANCES:

Dr. Anand Prakash, Bar-at-Law, assisted by Shri S. P. Jaura—for the Management.

Shri Bachubhai Sukla, Honorary Member of the Sangh with Sarvashri Durgawat, President, and B. Choudhury, General Secretary of the Sangh—for the Workmen.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Central Government was pleased to refer an industrial dispute existing between the employers in relation to Zawar Mines, Udaipur of M/s. Metal Corporation of India, Limited, and their workmen for adjudication by the Government Order—LRII/62(7)/58, dated 16th August, 1958. The dispute relates to the matters specified in the schedule annexed to the said order.

THE SCHEDULE

- (1) What should be the wage structure of various categories of employees in Mines.
- (2) Whether any bonus should be given for the year 1956-57 and if so, at what rate.

2. On the usual notices being issued, the President, Zawar Mines Mazdoor Sangh, Udaipur has filed the statement of claims on behalf of the workmen and the Director, Managing Agents, for the Metal Corporation of India Limited, has filed the written statement on behalf of the management.

3. The case on behalf of the workmen is that the Company is a highly prosperous concern employing in its mine at Zawar in Udaipur about 1200 workmen. Besides this mine the Company has got a factory in Bihar. The Zawar Mine at Udaipur has for its products zinc, lead and silver ores which are further processed in the Ore Dressing plant to produce lead and zinc concentrates and then sent for smelting. The factory in Dhanbad (Bihar) does the work of (a) smelting of lead and refining, and (b) producing silver as by-product. As the factory at Dhanbad is not in a position to undertake smelting of zinc concentrates, that is done from Japan on the toll basis but the steps are being taken to start the zinc smelting plant by the Company itself with the aid and subsidy of the Government of India and the Government of Rajasthan. The importance of this industry and its place in national economy can be well appreciated from the fact that a considerable portion of foreign exchange is being saved due to this company's producing a

part of our country's total need for two very important metals viz. Zinc and lead. Though the company is in a prosperous and financially stable state, its workmen are underpaid and the existing minimum is as low as Rs. 1/4/- per day, i.e., Rs. 32/8/- for male workers and As. -/14/- per day i.e. Rs. 22/12/- for female workers per month of 26 working days. The Company pays no dearness allowance or any other allowances and practically the same wage structure continues since the inception of the Company in 1945 barring a few changes here and there. The prevailing rates of wages in this region are much higher than what the company pays and besides, the work in the mine being of a more strenuous and hazardous nature, the workers deserve better and higher wages. In fact the Company is not paying even the minimum wages though it is capable of paying fair wages. Since the company has done nothing in the matter of workmen's wages including the dearness allowance, the question of wage structure of various categories of employees is now the subject matter of the present reference. The reference also relates to bonus for the year 1956-57 and looking to the profits made by the Company during the year it should be directed to pay bonus equivalent to 5 months' wages.

4. The case on behalf of the Company is that it could not correctly be described as a highly prosperous concern looking to its Balance sheets. It is true that the Company has a mine at Udaipur and a factory in Bihar but the concern is expected to become a self-sufficient unit only when a zinc smelter of minimum economical capacity is installed in the country. The company has been sending zinc concentrates, which is its major produce, to Japan for smelting on toll basis and the total expenditure comes to about Rs. 1,000/- per ton of metal in addition to the cost of production of the zinc concentrates required. During the year 1957-58 the Company produced lead and zinc metals to the extent of 16—17 per cent and 6-7 per cent, respectively of the country's requirements and even after the developments envisaged its production would hardly go above 30% in the case of lead and 35% in the case of zinc of the country's requirements. The company moreover has to face international competition in the matter of price. The company took over the lease of the mine from the Government of Mewar at the end of 1945 at which time there were no fixed wages nor any grades of pay, the lowest paid getting eight annas per day. The rates were raised from time to time between 1945 and 1952 and the minimum rates of wages fixed in 1952 in respect of stone cutting and stone breaking employments viz. Rs. 30/- for males and Rs. 20/- for female per month of 26 working days though not applicable to the mine, the workers were given the benefit thereof. The said rates have since been raised to Rs. 1-4-0 for males and Re. -/14/- for females. There has been revision of various grades from time to time and the payment of attendance bonus has further augmented the wages of the workers. The dispute regarding the wage structure has already been decided by Shri Mohan Lal Sukhadia the Chief Minister of Rajasthan. The workmen have considerably benefited under Shri Sukhadia's award and it is not now open to them to reiterate the same question. The question of payment of D.A. does not arise as the company has been paying a consolidated wage. The company has always been paying beyond its capacity and any further increase in the circumstances would not be justified. Unless there is a substantial improvement in the company's financial position, no question of revision of wage rates as fixed by the award of Shri Sukhadia arises. There has been no change of circumstances since thereafter to justify any agitation by the Union for the increase in wages. The claim of the Union for bonus is equally untenable firstly because the demand is belated and secondly there is no sufficient available surplus out of the profits in the year 1956-57 to justify the payment thereof.

5. *Demand No. 2.*—Under this demand bonus equivalent to 5 months' wages has been claimed on behalf of the workmen for the year 1956-57. The Company has got three units consisting of Zawar Mine at Udaipur, Head Office at Calcutta and a factory at Tundu and in respect of all these units a common Balance sheet and profit and Loss Account is maintained. It appears that for the years 1956 and 1957 a claim of 4 months' wages as bonus had been advanced on behalf of the workmen of the Tundu Factory and this formed a subject-matter of reference along with other demands to the Industrial Tribunal, Bihar. It was reference No. 27 of 1957 and the said Tribunal gave an award dated 13th November 1958 rejecting the workers' demand on finding that there was not enough available surplus to grant any bonus. Though a question was then raised as to whether the three units should be considered together in view of the consolidated accounts maintained by the company, no definite finding seems to have been given on the point nor were the calculations regularly made on the basis of the consolidated accounts in the usual manner according to the bonus formula laid down by the Labour Appellate Tribunal in the Bombay Mill Owner's case. This formula has

since been recognised by the Supreme Court with approval in the Muir Mill's case and in the case of the Baroda Borough Municipality—*vide* 1955 I LLJ 1 and 1957 I LLJ. 8. Any such rejection of the claim by the Bihar Tribunal does not debar the claim now before us from being decided on merits.

6. It has not been disputed by the parties that in view of the consolidated Balance-sheet and Profit and Loss Account, all the units should be taken together for the purpose of bonus calculations. In the financial year ended 31st March 1957 we find that the Company made a net profit of Rs. 5,24,966/- and on adding back thereto the items for depreciation charged, Donations, Loose Tools written off, alleged *Ex-gratia* payment of bonus for the year 1955-56 payment of arrears, payment of suspended increments and payment in regularization of grades, the Union in its statement Ex U-27 arrives at a total gross profit of Rs. 15,51,963/-. The Management on the other hand in its statement Ex. M-32 has added back only the items of depreciation provided and donations, so that the gross profit comes to Rs. 13,29,166. The items for Loose Tools written off, the so-called *ex-gratia* payment of bonus, arrears of suspended increments, and amount paid for regularization of grades cannot be considered as legitimate items of normal trading expenditure during the year. The workers' claim for bonus is required to be judged on the trading results of a particular year as disclosed in the Balance Sheet and Profit and Loss Account of the Company. The said items paid during the year are in respect of the liabilities of the previous years which the Company was expected to discharge at the proper time.

7. Certain demands of the workmen were referred to the private arbitration of Shri Sukhadia, the Chief Minister of the Rajasthan State and it was under his award dated September 21, 1956 that all these payments were directed to be made. The demand No. 1 before him was regarding the suspended increments for the year 1953-54. The learned Arbitrator found that the company used to grant increments regularly to its staff, and this practice had become a part of their conditions of service. The company however suspended increments for the year 1953-54 with the object to release the same after its financial position improved. The Arbitrator felt satisfied that there was an improvement in the financial position of the company and he directed the company to pay increments suspended. Similarly the second demand was for bonus and it was in terms described as Profit bonus for the years 1954-55 and 1955-56. The Arbitrator directed that a bonus equivalent to 1½ months' wages be paid to the workers for these years. Not only the claim was made on the profit basis but the Arbitrator himself has written under his letter dated 8th December 1956 (Ex. U-20) in clarification of his direction for bonus that it was in accordance with the principles laid down by the Labour Appellate Tribunal. The management however with a view to pacify the shareholders requested the Arbitrator to call it an *ad hoc ex-gratia* payment. Any such subsequent change in name cannot affect the real nature of the claim as awarded and there could be no doubt that under the award what was given was the profit bonus according to the principles laid down by the Labour Appellate Tribunal. This bonus having been paid in the year under reference has to be added back for the purposes of the present bonus calculations. The amount for regularization of grades is of the same type and the figure thereof along with other items is mentioned in the company's statement Ex. M-28. The Union has thus rightly arrived at the figure of Rs. 15,51,963/- as total gross profit.

8. After having arrived at the total figure for gross profit, we are next required to determine the prior charges in order to find the available surplus if any. Taking up first depreciation, the company before the Bihar Tribunal claimed only the normal depreciation of Rs. 3,98,633 *vide* Ex. U-23. Now in its statement Ex. M-39 the company has made a further claim of Rs. 87,855 for shift allowance. In this connection the company has not taken any consistent stand. In Ex. M-34 we find a claim for depreciation, described as National Normal Depreciation and shift depreciation on notional basis to the tune of Rs. 10,02,866. In Ex. M-28 normal and multiple shift depreciation is stated to be Rs. 4,86,488. In my opinion in the absence of satisfactory evidence and authenticative certificate, the Company is entitled only to Rs. 3,98,633 by way of normal depreciation and deducting the same we arrive at a balance of Rs. 11,53,330. I may add here that even if we allow Rs. 87,855 by way of shift depreciation the claim for bonus remains unaffected to the extent awarded *infra*.

9. The next prior charge is for Income-tax at 7 annas in the rupee together with provision for wealth-tax, *viz.* Rs. 4,94,519 and Rs. 23,000 respectively deducting which there remains a balance of Rs. 8,35,811. Then the next prior charge is of return on paid up capital, *viz.* Rs. 2,92,000 and on deducting the same there

remains a balance of Rs. 3,43,811. Calculating bonus equivalent to $4\frac{1}{2}$ months' wages on an average monthly wage bill of Rs. 72,750 (vide Ex. U-28) which comes to Rs. 3,27,375 and adding Income-tax rebate on the amount of bonus payable, the Union in its statement Ex. U-27 has shown a net residue of Rs. 1,59,662. It may be remembered that this statement has been filed by the Union without going into the other disputed questions as per the note at its foot.

10. The Management in its written statement while denying the claim for bonus has vaguely alleged that there is no available surplus. Right up to the time of the hearing we were not supplied with definite figures regarding the monthly wage bill as well as the other prior charges. According to the Management Rs. 1,04,010-50 is the average monthly wage bill as prepared from the Account books but no details have been furnished. We find that before the Bihar Tribunal the monthly wage bill of all the three units was alleged to be Rs. 1,25,000 and as observed in the award of the Bihar Tribunal the rehabilitation charges were then claimed to the extent of Rs. 27,80,182 (vide U-23 and U-24) without adducing any satisfactory evidence. Now the claim for rehabilitation for the year 1956-57 in respect of machinery and buildings is stated to be Rs. 10,55,169 less the depreciation—*vide Ex. M-35*, pages 1, 2 and 3. In an earlier statement Ex. M-34, it is stated to be Rs. 1,76,337. We have not been satisfied as to the correctness of the method by which the rehabilitation calculations have been made and as a matter of fact there is no immediate problem arising before the company on the point of rehabilitation and renovation. The machinery is almost new and recently purchased as I could see on local inspection as well as from the dates of purchase mentioned in the company's own statement. This is the case where any such rehabilitation consciousness on the part of the management should not go to defeat the workers' claim for bonus and the usual depreciation charge as allowed should suffice the purpose. In its written statement the management has made no specific claim for rehabilitation and on behalf of labour reliance was placed on the case of Assam Co. Limited 1958 I.L.L.J. 770 where their Lordships of the Supreme Court have held that a claim for rehabilitation must be made in the written statement of the Management and set aside the order of the Labour Appellate Tribunal granting an extra one per cent as return on reserves to meet replacement and rehabilitation charges. When the Labour Appellate Tribunal laid down the bonus formula in the Bombay Mill Owners' case, the question of rehabilitation and renovation arose because the machineries and buildings of the pre-war time were so old that for the purposes of rehabilitation, in view of the exorbitant post-war rise in prices, the normal depreciation would not suffice and an additional amount calculated on certain percentage basis and spread-over a number of years had to be provided for.

11. In my opinion so far as the present case is concerned, taking the monthly wage bill as given *viz.*—Rs. 1,04,010 by the company and also allowing the shift depreciation of Rs. 87,855, even then there would remain sufficient available surplus to pay bonus equivalent to $2\frac{1}{2}$ months' wages to the workmen concerned. The bonus calculation on U-27 has been made at the rate of $4\frac{1}{2}$ months' wages *viz.*—Rs. 3,27,375 which at $2\frac{1}{2}$ months' wages on the monthly wage bill of Rs. 1 lac and odd would come to about Rs. 2,50,000 and odd and if the shift depreciation were also deducted, there would be corresponding decrease in the taxation on the balance remaining. We have also to make certain allowances in favour of the workmen regarding the correctness or otherwise of these figures given by the management. Taking all the factors into consideration I direct that the management shall pay bonus equivalent to $2\frac{1}{2}$ months' wages to the workmen concerned for the year ending 31st March 1957 within two months from the date this award becomes enforceable. The employees dismissed during the year for misconduct causing financial loss to the Company will not be entitled to any bonus.

12. *Demand No. 1.*—This is a general demand for introducing a suitable wage structure for various categories of employees in the Mine. It appears that in an earlier dispute between the workmen and the management on the failure of negotiations between them in respect of certain demands, Shri Mohan Lal Sukhadia the Chief Minister of Rajasthan State was appointed by the parties on 22nd August 1956 to arbitrate on the points in dispute. The arbitrator gave his award dated 21st September 1956 and the award was to take effect from 1st October 1956. The demands referred to him related *inter alia* to D.A. and 40% rise in the wages of all the employees of the Zawar Mines. In the award—under the demand 4 for D.A. it has been directed that if there is any system of paying D.A. to employees of the Company, then the same should be made applicable to all without making distinction. As regards the 40% increase, the award stands thus:

"The management has agreed that the extra increment which was announced by the company at the time of withdrawing the strike is a step to meet the demand of the workers for increase in wages. This extra increment amounts to Rs. 60,000 for all workers and is nearly 8% increase in wages. On a close observation I find that the wages of the daily rated workers when compared with the monthly rated are too inadequate and I strongly feel that this category of workers are provided with a wage required for bare subsistence of himself and his family. Considering the financial position and other relative matter, I think it fit to give a 4% increase in addition to the 8% increase already sanctioned by the company to all the daily rated workers, but this will not bar the workers for re-agitating the issue of wages as soon as the financial position of the company is improved. I, therefore, direct accordingly."

In the result the monthly rated workmen got 8% increase in wages whereas the daily rated workers got an increase of 12% in their wages. There has not been any regular inquiry into the wage structure in the matter of wages and/or D.A. and apparently what has been given under the award looking to the demand as it stood, is some *ad hoc* interim relief, leaving it open to the workers to re-agitate the issue of wages as soon as the financial position of the company improved. No doubt, as observed by their Lordships of the Supreme Court in the case of Burn & Co., Limited—1957 I L.L.J. 226, the fixing of wages is a long term plan and there should not be interference in fresh adjudication of the dispute for revision of the wage-scales in the absence of any change of circumstances alleged or proved. Their Lordships' remarks are based on the ground that it would be contrary to the well established principles if a decision once rendered by a competent authority on a matter in issue between the parties after a full enquiry was permitted to be re-agitated. In the present case there has been no such full enquiry *vis-a-vis*, the workers' wage structure and if they have a genuine case of revision and if the financial position of the company so permits, there is nothing to prevent from devising a suitable wage structure for the various categories of employees in the mine.

13. The existing wage rates of the monthly rated and daily rated workmen can be seen in Exs. M-3 and M-4. The Union has filed several statements showing what the minimum requirements of the workers would be. The statement Ex. U-5 is the minimum family budget of a family consisting of three consumption units as worked out in the Report of the Rajasthan Cotton Textile Labour Enquiry Committee in October 1956 and there Rs. 75.42 has been shown as the minimum wage. Ex. U-6 refers to the minimum family budget of a family consisting of three consumption units according to the market price of 1959 and the minimum requirements comes to Rs. 115.06. Ex. U-13 is the minimum family budget of a family of three consumption units of a textile mill worker in Rajasthan which comes to Rs. 65 according to the retail prices prevailing in Jaipur in 1955. The Union has filed the comparative charts (Exs. U-8 and U-31) showing the minimum consolidated wages in different industries and so far as Udaipur is concerned, we find Rs. 50 in the case of Government State Garage and other Government employees, whereas in the case of Zawar Mines unskilled male and female surface workers are paid respectively Rs. 32.50 and Rs. 22.75, i.e. Rs. 1.4 and 14 Annas per day and the unskilled underground workers are paid Rs. 35.75 per month of 26 working days. Even in the company's Tundu factory in Bihar we find that the minimum wage is Rs. 52 against Rs. 32.50 in Zawar Mine vide Ex. U-15 along with para. 10 of Ex. U-12. It is a common ground between the parties that there is no system of any D.A. and what is being paid is only a consolidated wage which was in the beginning so low as 8 annas. Sometime when in 1952 the minimum wage was fixed in the industry of stone cutting and stone breaking the management proceeding on the same line fixed Rs. 30 for males and Rs. 20 for females per month of 26 working days and these rates have since been raised to Rs. 1.4 for males and 14 annas for females per day as said above so as to amount to Rs. 32.50 and Rs. 22.75 per month of 26 working days. It is thus no gain-saying the fact that the existing wage structure in the mine is highly unsatisfactory and needs a radical revision in an upward direction for the purposes of devising suitable rates of basic wages and D.A.

14. The main difficulty however is whether the workers demand has been made at the proper juncture and whether this is the opportune time to undertake any such task of revising the wage structure on a scientific basis. Shri Sukhadia while making his award in respect of a percentage increase gave some interim relief having felt that there was some improvement in the financial condition of the company leaving it open to the workers to further re-agitate

for revision if the financial position of the company appreciably improved. We have only to look into the Balance-sheets of the Company and it cannot be said that its financial position has so materially improved as to bear the burden of a regularly revised wage structure. No doubt its products consist of important metals of Zinc and Lead which to some extent meet the requirements of the country but at the same time the company has to depend on Japan for certain process. The Company is now negotiating for a loan as well as for installation of Zinc Smelter of minimum economical capacity in the country so that it would not have to approach Japan for smelting purposes as is being done at present at huge cost. It is no use undertaking the question of wage structure in any piecemeal manner and once for all on a proper inquiry a suitable wage structure should be devised when the financial position of the company appreciably improves.

15. In the recent judgment of the Supreme Court of India in the case of Express Newspapers, Limited & Anr. their Lordships after discussing the concepts of living wage, fair wage and minimum wage have laid stress on the capacity of the industry to pay while stating the following principles:

- (1) that in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity;
- (2) that the capacity of the industry to pay is to be considered on an industry-cum-region basis after taking a fair cross-section of the industry; and
- (3) that the proper measure for gauging the capacity of the industry to pay should take into account the elasticity of demand for the product, the possibility of tightening up the organisation so that the industry could pay higher wages without difficulty and the possibility of increase in the efficiency of the lowest paid workers resulting in increase in production considered in conjunction with the elasticity of demand for the product no doubt against the ultimate back-ground that the burden of the increased rate should not be such as to drive the employer out of business."

16. In view of the present financial position of the company we may not undertake the task of regular revision of the wage structure on a scientific basis but at the same time it cannot be said that its financial position is such as to permit the continuance of the existing low level of wages. The company is not paying even the minimum wage for which purpose the paying capacity is irrelevant. On behalf of the management reference was made to the proposal for minimum rates of wages in the Mica works industry and the representation which the employers made against the same vide Exs. M-26 and M-24(a). But the paragraph 7 of the said representation itself indicates that all Mica mining labour is of a casual nature and is mainly drawn from the agricultural classes who during the harvest season return to their fields and they work in the mine only during the non-agricultural periods. The Company's statement Ex. M-18 showing the comparative rates of wages in Udaipur division indicates that its monthly rated workers are not so better off as compared with those engaged in other concerns in the region. In my opinion instead of disturbing the existing wage rates, the same should for the time be further supplemented by an additional payment in the shape of D.A. at a flat rate of Rs. 20 so that the lowest paid worker does not get less than Rs. 52/50 and no distinction should be made between male and female workers. This is entirely within the company's paying capacity and I thus direct that the existing wages of the workmen shall be further supplemented by an additional payment in the shape of D.A. at a flat rate of Rs. 20 so that the lowest paid workers, male or female do not receive less than Rs. 52/50 per month of 26 working days with effect from the date of reference. The difference payable to the workers on this basis shall be paid within two months of the award becoming enforceable.

(Sd.) P. D. VYAS, Judge.

Dated: 26th March 1959.

Central Government Industrial Tribunal,
Nagpur at Bombay.

[No. LRII/62(7)/58.]

K. D. HAJELA, Under Secy.

**MINISTRY OF INFORMATION AND BROADCASTING
ORDER**

New Delhi, the 3rd April 1959

S.O. 785.—The Central Government hereby:—

- (a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 3805, dated the 26th December, 1955 and in modification of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.O. 484, dated the 21st February, 1959 that the Advisory Panel of the Central Board of Film Censors at Madras shall consist of 29 members with immediate effect; and
- (b) appoints the following persons as members of the Advisory Panel of the said Board of Madras with immediate effect in exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958:—
1. Shri N. Venkata Rao.
 2. Shri T. N. C. Srinivasa Varadacharya.
 3. Shri S. K. Ahmed Meenan.
 4. Dr. T. Lakshminarayana.

[No. F. 11/4/59-FC.]
V. P. PANDIT, Under Secy.

